



OFFICE OF FINANCIAL MANAGEMENT

LOSS PREVENTION REVIEW TEAM

**DEPARTMENT OF NATURAL RESOURCES
OFF-ROAD VEHICLE INCIDENTS**

May 2004

TABLE OF CONTENTS

Section 1: Executive Summary	2
Section 2: Introduction	5
The Review Purpose, Team, and Process	5
Section 3: Background and Context Information	7
Descriptions of Reviewed Incidents	7
Off-Road Vehicles in Washington	10
DNR Management of Off-Road Vehicle Use.....	14
Section 4: Information, Analysis, and Recommendations.....	19
Program Management	19
Agency Risk Management.....	22
Agency Culture	25
Trails and Roads.....	26
Users and User Groups	30
Equipment.....	32
Communications and Interagency Relations.....	33
Statewide Factors	35
Section 5: Appendices.....	37
<i>Appendix A: Team Member Appointment Letter</i>	
<i>Appendix B: Information Concerning Review Categories</i>	
<i>Appendix C: DNR Public Use Program Funding</i>	
<i>Appendix D: Materials from State of Maine</i>	
<i>Appendix E: Multiple Use Statute</i>	
<i>Appendix F: Washington “Recreational Immunity” Statute</i>	
<i>Appendix G: Davis v. State of Washington and Grant County (2001)</i>	
<i>Appendix H: Incident Reports</i>	
<i>Appendix I: Document Log</i>	
<i>Appendix J: Interviews Conducted</i>	

Section 1: Executive Summary

In December, 2003, as part of the State of Washington's Loss Prevention Review Team Program, the Director of the Office of Financial Management (OFM) appointed a review team to assess three incidents in which off-road vehicle riders were either seriously injured or killed due to accidents occurring on state land managed by the Department of Natural Resources (DNR).

ORV use on DNR-managed land falls within the agency's Public Use program. This report recommends actions to reduce and mitigate such incidents in the future.

Given its charge to recommend ways to prevent or mitigate future similar losses, the review team focused on the issue of managing off-road vehicle (ORV) use on DNR-managed land. Among other things, the team considered:

- The specific circumstances surrounding each of the incidents;
- The agency's policies, procedures and systems related to public use in areas such as program management, risk management, roads and trails management, communications and agency culture, as it relates to ORV use;
- Broad trends related to the ORV industry, markets, and user groups; and,
- The authorizing environment in which DNR operates.

The recommendations focus on the types of vehicles involved in the reviewed incidents – motorcycles capable of off-road use and all-terrain vehicles. However, the question of user safety within the Public Use program can be applied to any recreational activity taking place on DNR-managed land.

Recreational Use on DNR-managed Land

DNR is a major provider of ORV recreation opportunities in the state, and state government's foremost provider of such opportunities. Several trends create a challenge for DNR with respect to management of ORV use. These include significant growth in the sales of ORVs over the last six years, the lack of growth (or even reduction) of lands and sites available statewide for ORV use, and reduction in state resources committed to ORV facilities. In general, more people with more powerful machines have less land available for ORV use than ten years ago. The team finds nothing to indicate these trends will not continue into the future. DNR is not alone among public and private entities facing this management issue.

The agency is not only aware of the issue, but has taken active steps to try to meet it in a period of resource challenges. These laudable steps include

redirection of resources to the field, cross-Regional work on ORV management, and creation of a draft interim approach toward ORV use. ORV recreation is an intrinsically risky activity, a reality generally accepted by users. Furthermore, under the state's "recreational immunity statute", DNR currently enjoys a relatively high degree of protection against premises liability arising from ORV recreation on land it manages.

Loss Prevention Opportunities

Nonetheless, the team finds that an increased focus by DNR on user safety and risk management within the Public Use program is likely to reduce the number and severity of serious accidents, their human and public costs, and their liability potential. Such an increased focus is therefore merited. The agency has been attentive to the challenge of ORV management in a difficult external climate. But due to rapidly increasing motorized recreational activity and more powerful riding machines, DNR needs to increase its emphasis on user safety.

A number of measures the agency can take have the potential to reduce the risk of serious injury and fatality accidents in a time of growing use while still allowing for enjoyable, responsible recreation in the years to come. The team notes the agency is currently in the process of revising its WACs and policies. This affords an opportune time to put the team's recommendations into effect.

The team also finds that additional efforts by the Governor, the Legislature, and the Office of Financial Management can promote ORV user safety in the years ahead. These actions are recommended because many factors affecting ORV safety are beyond DNR's direct ability to control, and because ORV safety is an issue that transcends a single agency such as DNR.

Summary of Recommendations

The review team offers recommendations in the following general categories. Specific, detailed recommendations are set forth in Section 4 of the Report.

Recommendations to DNR

➤ Incorporate User Safety in the Policies and Management Approach Related to Public Use

In the Public Use program, along with environmental protection and preservation of the trusts' assets, emphasize user safety when and where motorized recreation is allowed. Reflect this emphasis in agency policies (including the draft interim ORV strategy), implementation procedures, risk management, agency culture, staff training, and outreach/communications to the user community.

- **Adjust the Agency's Risk Management Approach**
In addition to the current focus on employee safety and liability protection, make promotion of user safety a valued component of risk management activities at the Public Use program level, and at the agency-wide level as needed to support that focus for the Public Use program.
- **Provide Training**
Increase coordination and training efforts with local first responders. Train DNR staff to recognize and take appropriate measures regarding potential liability exposures under the state's recreational immunity statute.
- **Apply Specific Safety Measures on DNR-managed Lands**
Implement specific safety measures on DNR-managed lands to reduce the risk of accidents by ORV users.
- **Address Funding Issues Related to Public Use Demands for DNR-managed Land**

Recommendation to Governor and Legislature

- Appoint a Task Force on ORV Use in Washington State to study and make recommendations regarding issues related to ORV use within the state.

Recommendation to Office of Financial Management

- Coordinate an independent analysis by outside counsel of the public policy of the State in relation to public recreational use of state and private lands, and the protections afforded by the recreational immunity statute and case law, including the sufficiency and scope of its protection for land management agencies and landowners, given varying liability theories and evolving types of use. Provide the results of the analysis to DNR and, where relevant, to other state agencies.

Section 2: Introduction

The Review Purpose, Team, and Process

Review Purpose

OFM's Director appoints a review team as part of the Loss Prevention Review Team program process. The team is charged with reviewing incidents tied to an agency's activities resulting in death or serious injury, evaluating causes, and making recommendations regarding agency policies, procedures, or processes that may reduce future risk of loss. The purpose of the program is to identify loss prevention strategies as part of the state's response to serious events.

Liability and the Review Process

The appointment letter given to the team (attached to this report as Appendix A) emphasizes that the review is not intended to determine individual fault or liability, but is intended to be a broader look at the agency's systems and procedures. In evaluating the causes of incidents, and ways to prevent them in the future, the team must necessarily comment on agency practices and recommend specific actions. However, the analysis undertaken does not equate in any way with a legal analysis of causation or duty related to DNR's management of state land for Public Use.

Instead, the team used the selected reported events from DNR as a platform to take a "big picture" view of ORV-related loss prevention incorporating information and realities about:

- Large-scale trends involving ORV use and the ORV industry;
- The long-term nature of ORV risk management for the agency, which is mandated to provide multiple uses, including recreational uses of the land it manages, consistent with its trust obligations;
- Managing in the complex governmental and user-group environment; and,
- The inherent element of risk associated with ORV recreation.

Given the specifics of the incidents brought to the team's attention, and its limited time and resources, most of the work focused on loss prevention with respect to all-terrain vehicles and off-road motorcycles using DNR-managed land. The team notes, however, that many of the recommendations are also applicable to other types of vehicles such as snowmobiles and "four wheel drive" vehicles.

Review Team Members

This Loss Prevention Review Team was appointed by OFM's Director in December, 2003. The five team members brought a diversity of experiences, training and perspectives to the work at hand:

- Linda Burton-Ramsey, Risk Manager, Washington State Military Department
- Scott Chapman, Outdoor Grants Manager, Washington Interagency Committee for Outdoor Recreation (IAC)
- Rick Cooper, former Regional Manager (Southwest Region), Washington Department of Natural Resources
- Lynn Drake, Program Manager, Washington Traffic Safety Commission
- Cleve Pinnix, former Director, Washington State Parks and Recreation Commission

Review Process

The team held its first meeting on January 9, 2004. Over the next three months the team compiled information through interviews of DNR staff and others, as well as through document review from DNR and other sources. The Document Log is attached as Appendix I, and the Interview Log is attached as Appendix J. The team visited Tahuya State Forest, site of one of the review incidents that involved a fatality. The team as a whole met a total of 14 times over a period of four months to conduct interviews, review information, and develop conclusions and recommendations.

The review benefited greatly by the involvement of DNR staff for interviews, production of documents, and other agency-provided information. DNR staff reviewed a draft compilation of information forming the factual basis of the report and also provided feedback on a draft version of the final report. This latter involvement occurred at a meeting with DNR's Executive Director for Administration, and other DNR staff, on May 3, 2004. The team then met separately to review the feedback given by the agency.

As the team compiled information it found the topic of ORV safety to be complex. The team decided that the review would benefit by focusing analysis on several categories of inquiry that could result in useful findings and recommendations. These areas are: Program Management, Agency Risk Management, Agency Culture, Trails and Roads, Users and User Groups, Communications and Interagency Relations, and Statewide Factors.

Report Structure

The report offers background information to provide context about the specific incidents reviewed, ORV use and safety in Washington, and current and past ORV management within DNR. It then provides specific information, analyses, and recommendations for several different areas the team analyzed in the course of its work. Appendices to the document provide additional information gathered and used by the team during the review, review documentation, and materials developed by the State of Maine that relate to its work on the issue of ATV use.

Section 3: Background and Context Information

Descriptions of Reviewed Incidents

Incident A (Walker Valley)

In March, 2003, the rider of a four-wheeled all-terrain vehicle (ATV) struck a pickup truck, head-on, on a forest road located on DNR-managed lands in the Walker Valley management area in Skagit County. The rider wore a helmet. He was critically injured in the accident and was airlifted from the scene to Harborview Hospital in Seattle. Following treatment, he survived.

Washington State Patrol (WSP) troopers and a DNR enforcement officer responded to the accident. WSP filed an investigation report of the incident and cited the rider for reckless driving. Two of the rider's group had avoided colliding with the truck; the accident victim was the third of the ATVs to encounter the truck on that road as they rounded a curve at what was later determined to be an excessive rate of speed. The pickup, coming in the opposite direction, swerved to avoid two of the ATVs but the injured rider's ATV slid and struck the pickup.

Earlier that day, a DNR enforcement officer saw the group operating their ATVs in a careless and reckless manner, but was unable to catch up to the riders to warn them about the risks of their behavior. DNR had closed the road where the accident occurred to vehicle traffic, but a gate blocking the road had been vandalized, allowing access by the pickup truck involved.

The Walker Valley unit is a working forest that contains a designated ORV recreation use area. The Walker Valley trail system consists of about 30 miles of trail, most of which was constructed for off-road motorcycle use. Nine miles of the trails are open to ORVs in general. The system includes trail segments which are linked by traveling on segments of forest roads. The road where the accident occurred, known as the "B-1000," is a gravel surface and described as 1½ lanes wide.

Team Analysis: The injured rider and his companions were riding in a DNR designated ORV recreation area. ORV use is permitted on the forest roads within the area. The road on which the accident occurred was intended by DNR to have been gated and closed to conventional vehicle traffic at the time of the accident. However, the access gate had been vandalized, thus allowing entry by other vehicles. It is not clear whether or not the ATV riders presumed this road would be free of other traffic.

Roads within the ORV use area are periodically open to other vehicles. The paper DNR trail map for users of this area, entitled "Walker Valley Trail System, 1995 Trail Map," cautions that other vehicles use the roads. The map also states

the speed limit on roads is 25 mph, although there are no signs to this effect along roads in the area. The constructed ORV trail system in Walker Valley relies on segments of roads to link the trails in the area into complete loops for recreation riders. The team recommends that DNR install signs in this area that caution all recreational and industrial users about the mixed use on the road system.

Causative Factors: Mixed vehicle use on the forest management road; vandalism of gate barring vehicles; operator error; difficulty in contacting or warning users of risky behavior.

Incident B (Tahuya State Forest)

On the afternoon of March 15, 2003, a young adult was riding a motorcycle on the Howell Lake Trail within the Tahuya State Forest in Mason County. The motorcycle was a new one, more powerful than the rider's prior bike. The rider was an experienced motorcyclist.

He lost control of his motorcycle and was thrown into a tree, sustaining critical injuries. His riding companion went for help, notified members of the public at a DNR campground that there had been an accident requiring medical assistance, then returned to give aid to the victim.

A DNR ORV Trail Warden, on patrol that day, received a radio report that Mason County Fire District #2 units were responding to an ORV accident. After some difficulty in finding the location of the accident, the Warden arrived on the scene, assessed the situation, and led Fire District personnel to the scene. The crews had some difficulty in getting the victim off the trail to a location from which he could be transported to Harborview Hospital. Although he lived several days following emergency surgery, this victim died of his injuries.

DNR and Mason County Sheriff's Department staff investigated the accident. The trail where the accident occurred was typical of the riding conditions and terrain in this area.

Team Analysis: The Tahuya is a major DNR-managed destination area for ORV riding. The Howell Lake Trail was constructed and is managed for motorized recreation use. It is actively managed by DNR for a variety of ORV uses.

ORV trails are constructed to U. S. Forest Service (USFS) standards. DNR works with both paid crews and volunteers to maintain the trail system in this area. The team notes that ORV recreation inevitably entails an element of risk. The paper DNR trail map for users, entitled "Tahuya State Forest 1996 Trail Map," cautions users in several ways including watching for unmarked hazards on trails. Some ORV riders seek to test their personal limits and the limits of their

equipment. This accident appears to be a case of an experienced rider enjoying his sport and unfortunately suffering an accident.

The team also heard the frustration of Fire District and DNR personnel involved in this incident. Interviews with these personnel articulated difficulty in locating the accident site, the need for a hand-carried evacuation of the victim along the trail from the scene, and the consequent delays in getting the victim transported to medical care. All were cited by staff as they reviewed this incident. The team considered these factors in recommending improvements in communications between DNR and local cooperating agencies.

Causative Factors: Outcome was the result of a known risk inherent in the activity, including use of a new vehicle by the rider; communication difficulties; evacuation challenges.

Incident C (Ahtanum Multiple Use Area)

On the afternoon of May 2, 2003, a four-wheeled ATV rider on the Middle Fork Road within the Ahtanum Multiple Use Area (a concentration of DNR-managed lands in western Yakima County) was following his son, who was also riding a four-wheeled ATV. The rider was wearing a helmet and protective clothing.

The pair were returning to their vehicle from riding in the Ahtanum area. The son told law enforcement officers that when he was last aware of his father behind him, they were traveling approximately 40 mph. According to the paper map published by DNR of the area, entitled "Ahtanum Multiple Use Area Map" (June 1995), the speed limit for the road is 25 mph. The DNR map states that only street-legal vehicles are allowed on county and DNR management roads in the area.

The son stated he increased his speed because he thought his father was doing a good job of keeping up. This was only the third or fourth time his father had ridden an ATV. The son stated that when his father did not arrive at their destination, he became concerned. The son retraced his route back up the road, and found that his father had lost control of the ATV, run off the roadway and struck a large tree head-on. The son performed CPR on his father and summoned help from passing motorists.

A West Valley Fire District unit was dispatched to the scene and evacuated the father. However, the victim died en route to the hospital. While an autopsy was not performed, the cause of death was deemed to be massive head and internal injuries.

Team Analysis: The deceased was an inexperienced ATV rider who apparently was attempting to keep up with his son. Riding at high speed on a gravel road appears to be the cause of the accident. While the DNR publication states that only street-legal vehicles are allowed to use management roads in the area

(ATVs are not street-legal), and the speed limit is 25 mph, there is apparently no signage in the area to this effect.

The team also notes that no autopsy was performed in this case. The ATV the decedent was riding appears in photographs to have left the roadway in a straight line and crashed into a roadside tree. It is possible that the decedent could have suffered a medical event that caused the loss of control, but this cannot be determined.

Causative Factors: Operator error; excessive speed; use of an illegal vehicle for the location; possible medical event; operator inexperience.

Off-Road Vehicles in Washington

Before detailed discussion of the team's analysis and recommendations, it is useful to review some background information that provides context to the discussion. The following sections provide information about off-road vehicles, general usage within the state, safety-related statistics, management of use by the Department, and how that management fits within the broader work of DNR.

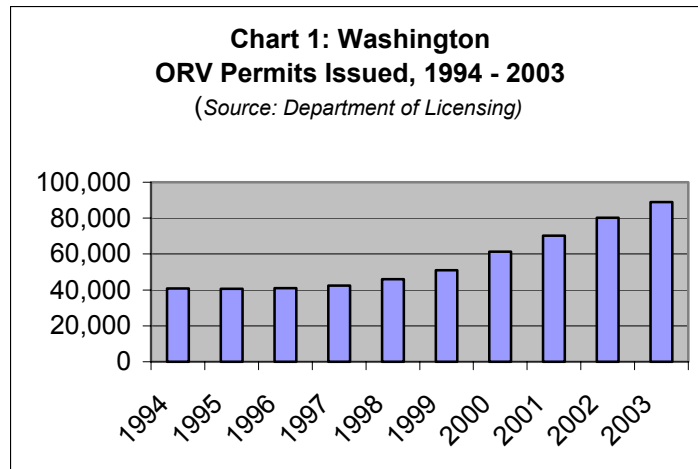
What are Off-Road Vehicles?

Washington law (RCW 46.09.020) defines an off-road vehicle as "...any nonstreet licensed vehicle when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. Such vehicles include, but are not limited to, all-terrain vehicles, motorcycles, four-wheel drive vehicles, and dune buggies."

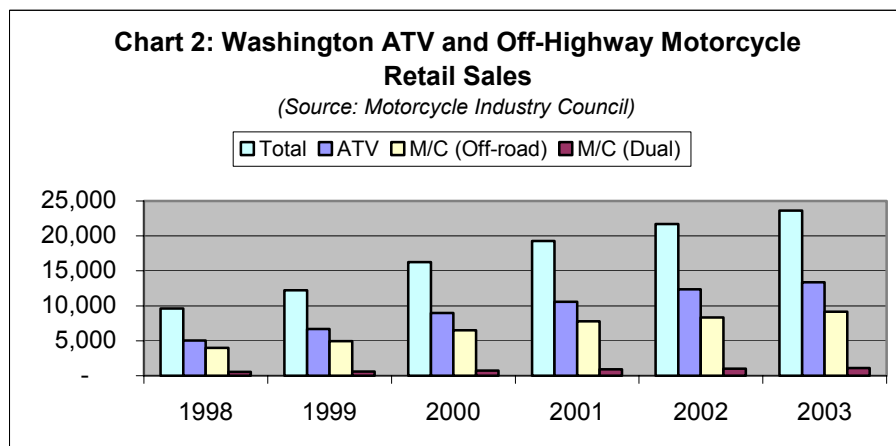
All-terrain vehicles, or ATVs, are referenced in the above definition, and were involved in two of the three reviewed incidents. ATVs can be generally described as 3- or 4- wheeled motorized vehicles designed for single-person, non-pavement use. Although 3-wheeled ATVs are no longer manufactured (at least for use in the United States), their use is still allowed in Washington and many other states.

What is the Extent of ORV Recreation in Washington, and Where Is It Done?

With limited exceptions, an annual permit is required for operation of any ORV within the state (RCW 46.09.050); over 80,000 ORVs are currently permitted in the state. Chart 1 shows ORV permits have more than doubled over the last ten years.



Information on ORV sales (motorcycles capable of off-road use, and ATVs) was obtained from industry sources. Chart 2 displays this information. More ATVs are being sold than off-road motorcycles, and total sales have more than doubled over the last six years.



These trends are consistent with those for the nation as a whole; for example, national ATV sales grew 6% between 2001 and 2002 (Washington's growth was 13% for the same period), and national sales increased five-fold between 1993 and 2002.

DNR's ORV recreation sites provide a major share of the publicly-provided opportunities for ORV use in the state, particularly in western Washington. DNR sites also provide most of the state's dedicated public trails for ORV use. Three of the major DNR areas are Tahuya State Forest near Belfair, Capitol State Forest near Olympia, and the Walker Valley site in Skagit County.

The Northwest Motorcycle Association's website identifies ten sites for ORV recreational trails in western Washington, eight of which include DNR-managed lands. The information on this site derives from the 1993 Washington Off-Road

Vehicle Guide, published by the Interagency Committee for Outdoor Recreation (IAC).

In Washington, landowner permission is necessary to use ORVs on private property. DNR staff reports a trend of private landowners shutting down their lands to ORV use, which they believe is placing additional demand on the agency's ORV sites. The other major public provider of ORV designated use areas in the state is the United States Forest Service (USFS). Most USFS ORV use areas are located in eastern Washington.

ORV Safety in Washington

A final piece of context is helpful for a discussion about ORV safety: information about injuries and fatalities within the state that are associated with ORV accidents. While some information is available about injuries and fatalities statewide, it is less available with respect to accidents on DNR-managed lands.

As Chart 3 shows, the overall number of fatalities involving ATVs has increased significantly in recent years. This chart shows ATV fatalities involving non-traffic (not on public road) accidents.

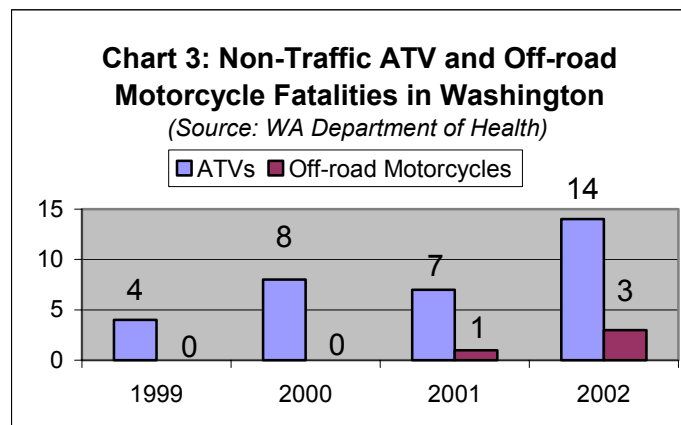


Chart 4 shows ORV-related fatalities by age group from the years 1999-2002. The numbers of fatalities were fairly even in the age groups from age 10 to 54.

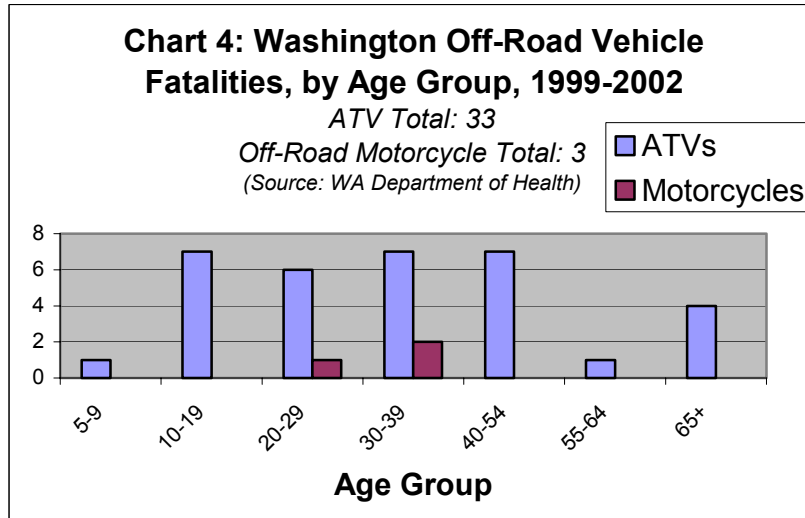


Chart 5 shows that Washington State nonfatal hospitalizations involving ORVs have also increased over time. From 1995 – 1997 the number of such hospitalizations involving ATVs averaged 84 per year, which climbed to an average of 175 per year between 2000 and 2002.

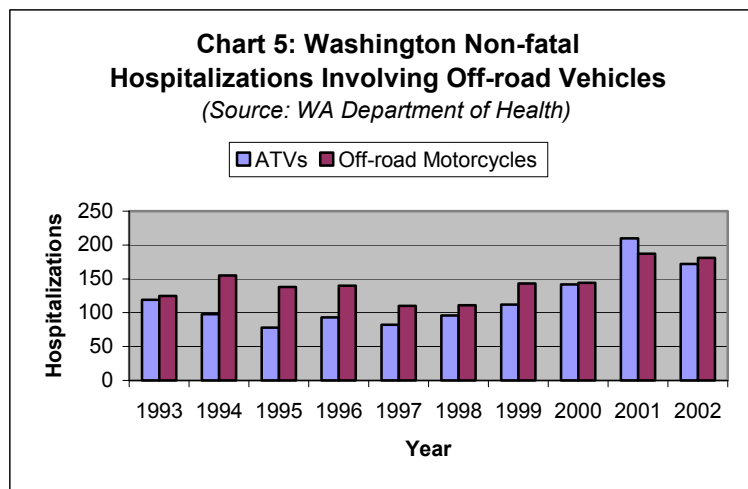
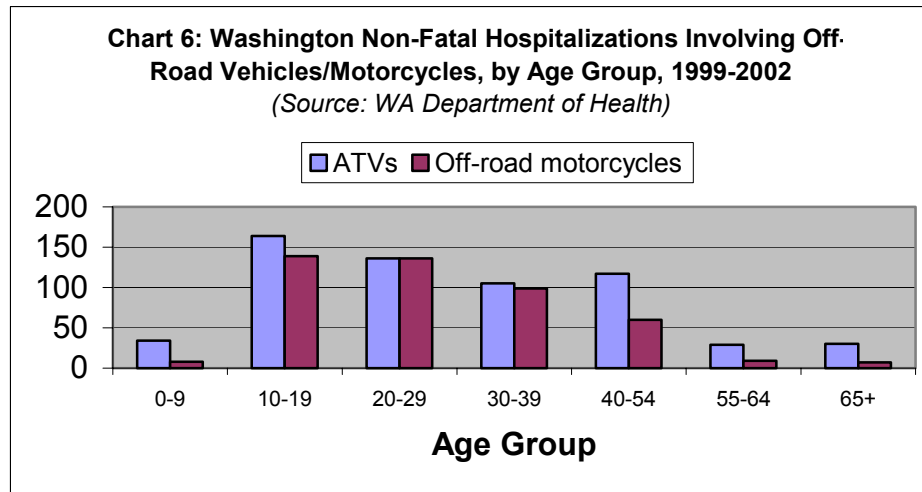


Chart 6 shows a breakdown of ORV-related hospitalizations by age group from the years 1999-2002. The greatest frequency of hospitalizations involved youth aged 10-19.



The preceding information about statewide hospitalizations and fatalities does not imply that DNR-managed lands stand out in terms of generating high numbers or severity of ORV accidents. But there is also no evidence that DNR-managed lands are not subject to the trends so evident in these charts.

Some information is available from local emergency response agencies that serve DNR ORV intensive-use sites. At the Tahuya State Forest, for example, emergency responses to ORV incidents have averaged, over the last five years, about one every two weeks. The team found this kind of information to be generally available, though not necessarily accumulated and analyzed at a summary level. In the absence of standardized statewide ORV accident reporting, these local response sources provide a potentially useful alternative for those who wish to analyze ORV safety issues. While at least one local responder's policies state it is to share the information with DNR, it is not routinely reported, nor does DNR seek it out.

DNR's knowledge of incidents is generally received when field staff are involved in an incident response, or they learn about it in the news. The fact is that verifiable information about injuries and fatalities from ORV accidents on DNR-managed lands is difficult to come by. There is no requirement to report accidents to DNR on either its roads or trails, and the agency does not systematically gather such information from other sources.

DNR Management of Off-Road Vehicle Use

DNR's Trust Responsibilities and the Recreation Program

Management of the agency's various programs occurs within the authorizing environment of the state's enabling act, constitution, statutes, WAC's, and case

law (federal, as well as state), along with agency policies, budget, and the Commissioner of Public Lands' priorities. The program under which ORV use falls is the Public Use program, administered by an Assistant Division Manager (ADM) in Olympia. Public Use is one of four programs administered by this ADM. The program relies heavily on volunteers to assist in trail construction (based on DNR-approved design), trail maintenance, and protection of the environment and capital improvements (trailhead facilities, etc.).

Program History:

From statehood (1889) until 1971, DNR and its predecessor agencies managed the state's trust land base (approximately 3 million acres) for the financial benefit of various entities named in the state constitution (public schools, universities and others) or named by statute (such as specific counties). The land was managed without formal legislative guidance regarding public recreational use. During this period, public recreational use was incidental and consisted mainly of hunting, fishing, berry/mushroom picking, firewood gathering, and other passive activities.

The 1970's:

Due in part to increased public use, and the public's increased desire to use the DNR-managed trust lands for a variety of recreational purposes, the state's Multiple Use Act (Appendix E) was passed in 1971. The Act codified DNR's responsibilities for managing multiple uses, including public recreational use on the trust lands it administers. The act directs DNR to utilize a multiple use concept for land management, which includes recreational areas and trails for vehicular use as long as such uses are compatible with activities fulfilling the financial obligations of trust management.

The 1980's:

In the 1980's DNR's Public Use program continued to grow. The agency entered into a number of leases with the IAC for campgrounds (destination sites) and trail easements (dispersed recreation). DNR-managed roads, initially designed and maintained for forest land management (logging, timber stand modification, and forest fire prevention and suppression), became available for use by the motorized recreating public and are generally still available for such recreation.

The 1990's - 2004:

Environmental degradation caused by the growing popularity of public recreational use, and the locations of some of these uses, led DNR in the 1990's to focus its Public Use program on protection of the environment and protection of the trusts' assets. DNR centralized its enforcement arm in 2002 in response to "the importing of urban issues" (vandalism, drugs and alcohol usage, drug manufacturing, garbage dumping, violent crimes, environmental impacts, etc.) onto DNR-managed lands.

State operating budget allotments for DNR's Public Use program are lower at present than they were a decade ago; the allotment in Fiscal Year 1995 was \$518,000, as compared to \$200,000 for Fiscal Year 2005. The program's total operating budget and capital budget allotments are also lower now than ten years ago. About 1/3 of the agency's Public Use budget is spent on motorized use. Appendix C has further information regarding the Public Use budget.

Today:

The recreation program manages 1,100 miles of trails, 450 miles of which are for public motorized use. DNR built or sanctioned trails are standardized in their design and construction/reconstruction, following USFS guidelines for motorized recreational trails. Motorized public use also occurs on most DNR-managed roads, of which there are over 15,000 miles; the number of available road miles changes as roads are built, "put to bed," gated, and ungated.

Operational management of the recreational program is delegated to the Region Managers (RM) by the Commissioner of Public Lands and the Executive Director for Administration. Portions of the program have been delegated to State Lands Assistant Region Managers by their respective RM's. The six Regions have had quite a bit of autonomy in program administration, and have tailored program implementation and priorities based on local needs and RM philosophies. For example, in the past risk management efforts have been education-based in one Region, and enforcement-based in another. This can lead to confusion on the part of users that recreate within different Regions throughout the state.

There is only one agency policy regarding public use on DNR-managed lands (entitled Public Use on DNR-Managed Lands, and numbered PO10-002), which was adopted in 1998. Part of its stated purpose is to, "...provide general guidance for managing public use." Its emphasis is on ensuring compatibility with trust obligations and on not impairing public resources.

Program emphases are on education of users regarding operating in a legal manner (ensuring machine is street legal or is displaying a current ORV registration sticker, has an approved spark arrester, etc.); some of this emphasis is carried out by enforcement staff attending organized ORV user group events. The agency also focuses on ways to minimize environmental impacts resulting from ORV use (such as working to keep riders on trails and out of water courses).

There is a sense, backed by some field data (trail counters, counting weekday/weekend users, increased requests for organized events, etc.), that the motorized public use of DNR-managed trust lands has been growing very rapidly in the last five years and will continue doing so in the near future. These perceptions reflect the trends seen in ORV permits and sales noted earlier in this report.

The Challenges of Managing ORV Use

DNR, as a land management agency, has a difficult task in its role as a manager of lands used for ORV recreation. DNR has a trust responsibility to manage lands under its stewardship to generate revenue for the trust beneficiaries. The public policy of multiple use is clear that public use can be limited where it interferes with this fundamental mission.

ORV recreation management presents a number of significant challenges to DNR. Because motorized activity has the potential for causing significant resource damage, ORV use can conflict with DNR's interests in generating revenue and protecting public resources such as wildlife and fish habitat, water quality, and soil productivity.

In addition, ORV riding carries with it an inherent risk that makes managing to prevent harm to the user more difficult. Restrictions on behavior often conflict with the very reason ORV enthusiasts engage in the activity. There are significant public health costs associated with responding to and treating injuries that happen to ORV riders as well.

While DNR has seen its available budget for recreation management decline in recent years, ORV sales and ridership have grown substantially, placing serious burdens on staff and facilities alike. DNR managers and staff are to be commended for their willingness to continue in providing this recreation use on state trust lands.

Based on the material reviewed, research conducted and interviews held, it is clear that there is no silver bullet that will prevent all ORV accidents on DNR-managed land. On the contrary, increasing ridership and the production of an ever-greater array of ORVs pose continuing challenges for all recreation managers of this activity. During recent years, other forest landowners have restricted or closed access to their lands for ORV use. For many riders, DNR-managed lands are the only significant legitimate riding opportunities in their locales. This makes DNR a de facto leader on ORV issues.

“Washington is not alone” in grappling with ORV-related issues

Management of ORV use and impacts is a common and growing issue for both public and private enterprises in many parts of the country. Both governments and companies are responding. A governor's task force in the state of Maine recently issued a report with recommendations for several aspects of ATV use, including safety. Minnesota passed legislation in 2003 overhauling regulation of ATV use. The legislation addressed vehicle operation, trails, enforcement, and safety. The USFS is in the early stages of creating new policy for off-highway vehicle use on national forest roads. Private companies in Washington and elsewhere are increasingly restricting ORV use on their properties, a trend that is compounded by the ongoing transfer of ownership of many lands close to urban

and suburban areas (where a number of ORV users reside) to more development-minded property companies.

DNR's Recent Work on ORV issues

In 2003, DNR established a cross-Regional working group focusing on recreational issues common to the Regions on the west side of the Cascades. Since that time the group has worked to coordinate ORV signage across boundaries. As an outgrowth of this work, the agency has developed a draft interim strategy, not yet finalized or implemented, toward ORV use, which was given to the review team. The team commends DNR for this work, and in many cases the team's recommendations either follow or mesh closely with the draft as it was presented.

Section 4: Information, Analysis, and Recommendations

This report section presents key information, conclusions, and recommendations for preventing and mitigating future loss due to ORV accidents. Because of the broad nature of the topic, the team organized its work into the several categories listed below. Their order in this list is not related to any perception by the team of their relative importance.

1. Program Management
2. Agency Risk Management
3. Agency Culture
4. Trails and Roads
5. Users and User Groups
6. Equipment
7. Communications and Interagency Relations
8. Statewide Factors

In the pages that follow, the reader is offered a definition for each category, a summary of the key information gathered and conclusions reached, and a list of recommendations. Because of the volume of data gathered by the team in many of the categories, additional information is also provided in Appendix B to the report.

Program Management

Program Management: Definition

Program management refers to how ORV recreation is managed at all organizational levels. This includes DNR's structure, policies and procedures, staff roles, and enforcement. This section also considers the organizational context into which ORV recreation fits.

Program Management: Key Information and Conclusions

1. One of DNR's primary responsibilities is to manage a state endowment of almost 6 million acres of aquatic lands and uplands. Many of these lands were granted at the time of statehood to be managed in trust for various public institutions, including the state's common schools (kindergarten through 12th grade), universities, and capitol buildings. Some 2.1 million of these acres currently consist of forested lands, some of which are managed for counties as well.
2. Since passage of the state's Multiple Use Act in 1971, DNR has been directed to manage these trust lands for a variety of public uses where such a use is appropriate and is in the best interests of the state and the general

welfare of its citizens, and is consistent with the applicable trust provisions of the various lands involved. This statute made DNR the state's largest recreation land manager.

3. Program development and allotments are overseen by Division staff in Olympia. Operational management is delegated to DNR's six Region Managers. This historical level of autonomy has resulted in inconsistent implementation of some public use program components, such as signage, public use of DNR-managed roads, closure of roads to the recreating public, gating, and use of FTE's.
4. The Commissioner of Public Lands wants DNR's Public Use program to be proactive and responsive to the public's desire for recreation opportunities on DNR-managed lands.
5. Agency staff has begun a number of initiatives addressing Public Use issues. These include updating DNR's Public Use policy and WACs, convening a Westside coordinating group, consolidating its FTEs, and centralizing its Initial Incident Report (IIR) tracking system. The Commissioner of Public Lands is also seeking legislative authority to create a new trust whose revenues would fund the recreation program. DNR is also repopulating its database of incidents occurring on state lands that are self-reported to agency headquarters by the Regions. A Critical Incident Review process was developed, and applied twice to ORV accidents. These initiatives have yet to be fully implemented.
6. DNR has a strong sense of responsibility regarding public safety on the lands it manages, but there are no explicit written policies regarding this matter.
7. Additional, proactive measures to address user safety will likely require additional resources.
8. The Critical Incident Review process used by the department for its fire-related incidents provides for an agency-wide sharing of review information and incorporation of "lessons learned" into its fire program.
9. DNR has recently centralized its enforcement operations, and made a management decision to increase the number of enforcement-oriented Natural Resource Investigators (NRIs) while decreasing the number of Trail Wardens serving its managed ORV recreation areas. DNR made these changes due to enforcement concerns and a reduction in funding. This reduces "on-the-ground" resources that focus on local knowledge, user education, and safety at the ORV areas.
10. Some user groups stated that Trail Wardens were more important than DNR Investigators.

11. In response to resource pressures, in the last several years the agency has shifted Public Use program resources from the central office out to the Regions. The loss of strategic planning resources affects the sustainability and consistency of the program, which ultimately relates to user safety.

Program Management: Recommendations

1. Along with environmental protection and preservation of the trusts' assets, emphasize user safety when and where motorized recreation is allowed. Reflect this emphasis in agency policies (including the draft interim ORV strategy), implementation procedures, risk management, training, and outreach/communications to the user community.
2. Reconfigure statewide program management to factor in variables such as differing landscapes, terrain, user patterns, and land management activities, while being consistent on signage, maps and brochures, a trail rating system, and basic rules.
3. Engage in a statewide effort to better inform users on safety issues.
4. Develop closer collaboration between Public Use program management staff and other DNR staff (including Enforcement) through establishment and conveying of priorities, especially user safety priorities. The current management model precludes direct Public Use program control of specific enforcement actions and policies to address user safety issues. Development of strong collaboration between the Public Use program and the Enforcement program, or a change in the management model, would address this concern.
5. Ensure the Critical Incident Review (CIR) process includes:
 - a. Reviewing all public user accidents resulting in serious injury or death;
 - b. Sharing the lessons learned with all Regions, program management staff, and the enforcement group;
 - c. Program modification in response to the findings. (the Incident Critique process used by DNR for fire-related incidents offers one approach for sharing lessons learned, and for program modification procedures); and,
 - d. Training on topics related to the CIR conclusions where findings indicate it would be materially helpful.
6. Continue to pursue additional program funding through the budget process and Legislature to restore staffing for functions that can positively affect user safety, such as Trail Wardens and centralized recreation strategic planning staff, and to implement safety-related measures.

7. Analyze and determine the feasibility of:
 - a. Statewide fees to support Public Use program costs (other state agencies, such as State Parks and the Washington Department of Fish and Wildlife (WDFW) have done so while maintaining coverage under the Washington recreation immunity statute); and,
 - b. User fees to support public use program costs, which may also involve accepting exposure to potential liability in certain instances or in specific locations.

Agency Risk Management

Agency Risk Management: Definition

This area refers to the agency's formal risk management activities related to the Public Use program.

Agency Risk Management: Key Information and Conclusions

1. The Public Use program in Olympia only minimally addresses user safety in its formal policies and procedures, program documents, or activities. The current risk management philosophy of DNR limits risk management activities to liability prevention and employee safety, as determined within each individual program.
2. DNR addresses risk management throughout the enterprise, but does not do so in a coordinated, coherent manner. The result is inconsistent policies and practices to prevent loss, prioritize action plans and monitor or fund loss prevention and liability protection activities.
3. DNR's centralized risk management functions do not assess risk and implement risk management policies/procedures/guidelines for the Public Use program. The agency's Risk Manager position emphasis is on handling filed tort claims and insurance issues (procuring commercial policies, drafting and reviewing contract language requirements); the position provides risk analysis upon request of programs. A separate agency position of Safety Officer is focused on the safety and wellness of agency employees.
4. The six individual Region Managers have been delegated the majority of the Public Use program's risk management responsibilities.
5. DNR relies on the Washington recreation immunity statute (RCW 4.24.200 and RCW 4.24.210) and a 2001 State Supreme Court case [*Davis v. State of Washington and Grant County* (#98-2-01796-3)] when assessing risk to the agency regarding public recreational use.

6. DNR does not have systems in place to determine the number and nature of accidents involving the recreating public on the lands it manages, and is therefore unable to analyze accident trends.
7. DNR staff stated the Commissioner of Public Lands has placed an emphasis on providing public recreation opportunities on DNR-managed lands and on seeking alternative funding sources to support the agency's recreation program.
8. The state's recreational immunity statute does not preclude liability for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. The agency lacks formal training to staff on how to recognize and respond appropriately to such conditions. Having such formal training could assist the agency to avoid liability by minimizing the numbers and effects of such conditions on the land it manages.
9. DNR Natural Resource Investigators receive basic accident reconstruction training and are certified by the Criminal Justice Training Commission. However, they do not specialize in accident reconstruction and are not experts in this work. Current DNR investigations of critical incidents are limited in value because expert accident reconstructionists are not used. Expert reconstruction for deaths or serious injury accidents, such as that offered by the Washington State Patrol, would provide the agency with a significantly higher level of certainty about causation.
10. DNR uses a variety of documents that encumber trust lands for purposes of Public Use. These include term easements, leases, and licenses. DNR uses IAC and other funds to compensate the trust(s) for these encumbrances. Term easements and leases are obtained from the Board of Natural Resources (Board) for Public Use purposes. These agreements in essence divide the agency so that the Supervisor of DNR and the agency are identified as separate from the Board and the Commissioner of Public Lands for purposes of legal responsibility for the management of the easements and leases. The Supervisor and agency indemnify the Board and the Commissioner of Public Lands from any liability associated with the use of the encumbered lands. The language of the easements places trail closure and access decisions with the Board, rather than the agency. Licenses are entered into between DNR, acting as trustee and called the Trust, and DNR's Public Use Program, called the Licensee. The license places liability on the Licensee for all loss and damage. To the team's knowledge these various agreements have not been reviewed recently by legal counsel to see if current program management and decision making are consistent with the requirements of the instruments, and to what extent the agency has legal exposure by having agreed to indemnify the Board and the Commissioner of Public Lands.

Agency Risk Management: Recommendations

1. Train DNR's Region Managers in consistent risk management practices related to the Public Use program, to assist them in their delegated responsibilities.
2. Provide formal training to DNR staff to recognize and take appropriate measures regarding potential liability exposures under the state's recreational immunity statute.
3. Seek information regarding ORV accidents on DNR lands.
 - a. Develop systems and procedures to get information from counties, first responders, Department of Health (DOH), hospitals, clinics, and other agencies with relevant information.
 - b. Share "lessons learned" from accident analyses with all the Regions.
 - c. Create a database and use it to develop prevention strategies. Include public user accident information in the database.
 - d. Periodically use accident information and lessons learned to update management plans and safety strategies.
4. Clarify and identify the role of specific agency personnel in relation to accidents on DNR land. This would clarify agency personnel's roles and responsibilities in assisting first responders. For example, the team's assessment of Incident B identified this as an issue.
5. Establish accident reconstruction protocols using expert accident reconstructionists, such as the WSP offers, as part of the Critical Incident Review program for all incidents involving serious injuries and fatalities. Share the investigation/review conclusions among the Regions.
6. Incorporate user safety and other risk management strategies into the final "Recreation and Access Policy for DNR Trust Lands" policy (currently in draft form).
7. Enlist legal counsel and Public Use Program assistance to review, and amend as necessary, the easements, leases, licenses, and any other Public Use instruments that place the agency and/or the Public Use Program in the position of being liable for loss or damage resulting from the use of the premises, or where current agency decision-making practices run counter to the terms and conditions of the documents.

Agency Culture

Definition

For the purpose of this report, culture refers to the interwoven pattern of beliefs, values, practices and artifacts that define for members of DNR who they are and how they are to do things. The team believes culture is an observable, definable component of DNR and an important factor in preventing and mitigating future loss with respect to the ORV issue. The team believes it can speak to this factor because of the consistency with which certain beliefs have been expressed through DNR materials and in staff interviews, and because the team contains a balance between former DNR employees with first-hand experience in the agency culture, and others who have observed it through interviews of staff and review of agency materials.

Key Information and Conclusions

1. As described in the section on program management, the primary agency mission is to manage public trust lands in the interests of specific beneficiaries. Secondary responsibilities include public use of DNR-managed lands. Commensurate with this hierarchy, the “trust mandate” is the primary element of DNR culture, and it permeates the agency.
2. Another primary component of agency culture is a professional and scientific approach to management of the agency and the resources placed under its trust. New employees are given guidance from the more experienced staff in the philosophy and mission of the agency.
3. All DNR employees the team talked to were knowledgeable of the agency’s mission, vision, and goals. Employees are very committed to agency mission and take pride in their work.
4. Public Use occupies a secondary place within DNR culture, again in keeping with the activity’s secondary status within the agency’s authorizing environment.
5. One expression of the agency’s culture is that the initiative for promoting user safety is largely within the domain of individual users, their organizations, and the ORV industry: it is seen as being largely outside the domain of the agency’s work. Evidence of this includes comments made by staff at all the levels interviewed by the team; a lack of emphasis on user safety in documents, web site materials, and signage aimed at the ORV community; and formal and draft policies of the agency.
6. This is not to say the agency does not concern itself with user safety. For example, it exhibits commitment to providing trails that are safely built and maintained, takes some action to educate users on safety-related issues, and provides assistance as it can when accidents occur. Individual

employees have demonstrated particular commitment during their field responses to accidents.

7. Employees with whom the team spoke expressed a strong belief that the State Recreational Immunity Act and the State Supreme Court's *Davis* decision provide a high degree of protection against claims arising from the public's recreational use of the lands they manage.
8. All indications suggest the numbers of state ORV users will continue to climb in the future and DNR lands will continue to see an increased concentration of use. Safety is a critical aspect of ORV use and will remain a constant or growing management issue for the agency. Fostering an internal culture that places high value on promoting user safety will help the agency better recognize opportunities to improve safety and act creatively on them, regardless of recreational liability protections currently contained in statutes.

Agency Culture: Recommendations

1. Promote a culture that fosters proactive agency actions to improve user safety.
2. Promote a culture that fosters working in concert with other agencies that also have recreational programs and learning from each others' experiences.
3. DNR employees need to complement the Commissioner of Public Lands' leadership on recreational opportunities with the supporting work to ensure that use occurs as safely as possible.

Trails and Roads

Trails and Roads: Definition

This area refers to management of the DNR-managed trails and roads used by ORVs.

Trails: Key Information and Conclusions

1. ORV Public Use occurs on DNR-managed lands across the state.
2. Users recreate at multiple DNR sites.
3. Currently DNR ORV use areas are not consistently signed or managed. Because ORV users from one Region often travel to another, the expectation that they will encounter the same standards in one DNR management area as they have in another is probable. DNR does not have consistent sign formats

from Region to Region (although it is working on them for the west side), nor does it have standardized concepts governing when it will and will not place signs, or road closure/use limitations.

4. Some DNR-managed roads and ORV trails connect with trails and roads managed by federal and other state agencies, as well as private landowners. This means that DNR does not have exclusive control over the user environment, and that users face varying trail and roadway design even in one locale.
5. Users do not always know who manages the land where they are recreating.
6. Trail difficulty and trail design affect user safety.
7. Users play an important role in the management and maintenance of DNR's trail system.
8. Many single-track trails have become double-track trails as the result of ATV use. The result is a trail that is suitable for ATVs but may not be suitable or as safe for motorcyclists.
9. Some ORV trail systems rely on segments of forest roads to allow ORV riders to complete trail loop rides.
10. DNR states its practice is to use USFS design and maintenance standards for its ORV trails. However, not all such trails are maintained to those standards.
11. Volunteers are used to help maintain trails, and are overseen by DNR staff.
12. DNR has developed trails for various types of ORVs to use: single-track trails for motorcycles, double-track trails for ATVs, and four wheel drive trails for short-wheelbase four wheel drive vehicles. Most were specifically designed for vehicles of varying size and capacity. In many cases, nothing prevents users from riding ORVs on trails not intended for their vehicles.
13. Repeated use can lead to the nature of the ORV trail being radically altered (from single-track to double-track, for example), or to resource damage, as occurs when oversize ORVs avoid a narrow bridge by traveling directly through a stream.

Trails: Recommendations

1. Develop consistent, statewide signage for ORV trails and trailheads. The need for signs may vary, but where they are used, they should be consistent. This is sometimes referred to as developing a signing or naming convention. At a minimum, signage for trails open to motorized recreation should:

- a. Identify allowed uses,
 - b. Rate the difficulty of the trail,
 - c. Warn trail and road users of road/trail crossings,
 - d. Identify the name of the trail,
 - e. Provide mileage markers along the trail, and,
 - f. Include safety messages. One example is the signage posted at Tahuya State Forest indicating the numbers of accidents or fatalities on that system in the recent past.
2. Ensure minimum acceptable maintenance occurs on DNR-managed ORV trails:
 - a. Identify supervisory requirements for volunteer work parties,
 - b. Develop minimum training requirements for unsupervised volunteers,
 - c. Develop a certification system for volunteer crew leaders, and
 - d. Establish a periodic trail maintenance inspection procedure.
3. Complete individual management plans for all designated ORV trail systems, with a focus on user safety, preservation of trust assets, and environmental protection. The plans need to identify:
 - a. What uses are appropriate on each trail,
 - b. The trail segments that need to be modified to reduce speed,
 - c. Areas of environmental concern,
 - d. Signage needs,
 - e. Trail difficulty ratings, and how to notify users of those ratings,
 - f. New trail opportunities,
 - g. Replacement trails needed to get ORVs off roads, and
 - h. Timeframe for periodic review and update of the plans.
4. Review designated ORV trail systems and develop strategies for minimizing interactions between ORVs and other motor vehicles. As a first step, road segments needed to complete ORV riding loops should be identified, and these areas signed to warn all users of the mixed traffic. As funds permit, construct connecting trail segments so that use of these roads by ORVs is discontinued.
5. In addition to DNR, other land management agencies, recreationists, and the ORV industry would benefit from consistent signage and management of ORV trails and facilities in the State of Washington. For this reason, in addition to DNR's work to create consistent signage, this should be one of the topics discussed by the ORV Task Force that is recommended elsewhere in this report.
6. Establish a trail designation system to identify permitted ORVs for a given trail. That is, trails would be considered closed to a particular type of ORV unless marked as open for that use. This approach allows DNR to defend the integrity of the constructed trails.

Roads: Key Information and Conclusions

1. Two of the ORV accidents looked at by the team were associated with ORV use on DNR-managed roads.
2. DNR Regions have different procedures regarding ORV use of roads.
3. The DNR-managed road system was not designed for public use, but for forest management access.
4. ORVs can typically travel faster on roads than they can on trails. DNR has identified speed limits on some public use maps, but DNR does not typically post speed limits on roads.
5. Some DNR-managed roads connect to road systems managed by other land managers or private timber owners. Currently, the USFS in Oregon and Washington does not allow unlicensed ORVs to use USFS roads. However, the team understands that the USFS is looking at policies that may allow use of some roads by unlicensed vehicles.
6. DNR-managed roads provide a significant ORV recreation opportunity to many users.

Roads: Recommendations

1. Develop a consistent, statewide policy regarding ORV use of DNR-managed roads. Address the unique safety concerns posed by underage, unlicensed ORV riders. The team recommends that the policy:
 - a. Declare all DNR-managed roads closed to non-street licensed vehicles and unlicensed operators unless posted otherwise;
 - b. Determine under what specific circumstances any DNR-managed roads should be open to non-street licensed vehicles and/or unlicensed operators; and,
 - c. Determine appropriate signing requirements (e.g., signing requirements if ORVs are allowed on road segments) and develop consistent, statewide signage for ORV use of roads. The need for signs may vary, but where they are used, they should be consistent. This is sometimes referred to as developing a signing or naming convention.
2. Develop a consistent, statewide policy regarding motorized vehicle use of DNR-managed roads (ORVs, passenger vehicles, commercial vehicles, etc.). Determine:
 - a. If, when, and where speed limits are appropriate, and
 - b. What other signing is appropriate (e.g., signs located at the major entrances of road systems stating that DNR roads: are primitive, used

by a variety of vehicles for a variety of purposes, and that users have a responsibility to operate their vehicles in a manner appropriate to current conditions).

- c. Include mileage markers on roads to facilitate location of accident sites.
3. In addition to DNR, other land management agencies, recreationists, and the ORV industry would benefit from consistent signage and management of roads used by ORVs in the State of Washington. For this reason, in addition to DNR's work to create consistent signage, this should be one of the topics discussed by the ORV Task Force that is recommended elsewhere in this report.

Users and User Groups

Users and User Groups: Definition

This factor relates to the agency's work and communications with both individual ORV users and their user groups.

Users and User Groups: Key Information and Conclusions

1. DNR does a good job of advocating its trust mandate and its environmental stewardship responsibilities. However, in general DNR does not advocate for ORV user safety.
2. Many ORV users do not report the accidents to DNR that occur on the land DNR manages.
3. Focus groups have played an important role in the management of various DNR-managed ORV use areas. Not all types of ORVs have readily identifiable groups for DNR to work with, making it more difficult to establish focus groups for all types of ORVs.
4. There is no age requirement to operate an ORV on DNR-managed lands.
5. There have been increases in ORV use by families.
6. Experienced and inexperienced riders are using the same trails.
7. There are more and more single riders who are not members of organizations.
8. Demographics of ATV users are very broad – young and old, male and female, etc.

9. Motorcyclists are more likely to be male and younger than other ORV users.
10. ATV users are not as well organized as motorcyclists and four wheel drive users.
11. DNR believes those users that belong to user groups tend to act more responsibly (e.g. safer, more environmentally friendly).
12. DNR meets with users and user groups which provide forums for DNR to communicate regarding use of DNR-managed lands, such as trail closures, timber sales, event use, vandalism, accidents, etc.
 - a. South Puget Sound Region - monthly focus groups with users in the Tahuya; starting a focus group of both motorized and non-motorized users of the trails in Elbe Hills.
 - b. Pacific Cascade Region - Trails Advisory Group (TAG) meetings are held every other month with trails users of the Yacolt State Forest
 - c. Pacific Cascade Region - Capitol Forest Advisory Group meets three to four times a year with both trail and non-trail related interest groups (users, clubs, homeowners, etc.)
 - d. Olympic Region – Meets periodically with the Burnt Hill Focus Group
 - e. Northwest Region – Use to hold user meetings every other month. Now works with a small core group of users and neighbors on developing plans for the Walker Valley ORV area. DNR staff attends Snohomish ORV Club meetings in Everett about every other month to discuss land use issues. The Region e-mails information to one hundred or more users as needed.
13. There is minimal safety emphasis on the public user groups' websites, as indicated by the following:
 - a. Washington ATV Association's web page: *"Show respect by riding responsibly within your skill level, never ride alone and share the riding areas with other responsible users!"*
 - b. No safety message was found on the Northwest Motorcycle Association or the Pacific Northwest Four-Wheel Drive Association web sites.
14. DNR has limited direct control over user behavior. The uncontrollable aspect of user behavior is a primary cause of ORV accidents. However, by emphasizing safety DNR can potentially influence behaviors and thereby reduce accidents.

Users and User Groups: Recommendations

1. Be an advocate for ORV user safety. This advocacy needs to be reflected in the agency's policies, rules and regulations, and should be communicated to

users and the industry through maps, signs, web pages, user group contacts, direct user contacts, dealer contacts, and other communication methods.

2. Develop a communication strategy to better ensure information regarding safety information, and rules and regulations, are available to users, dealers, industry, and other recreation managers.
3. Further develop user group relationships through the continued use of focus groups and other public involvement methods. Include an assessment of the “lessons learned” and best practices from individual Regions, and implement them statewide as appropriate.
4. DNR, as well as other land management agencies, the ORV recreationists, and the ORV industry, and other land management agencies would benefit from a consistent statewide ORV safety program. This should be one of the topics discussed by the ORV Task Force that is recommended elsewhere in this report.

Equipment

Equipment: Definition

This factor addresses whether DNR should limit aspects of ORV equipment on the lands it manages, such as horsepower, size, or types of models.

Equipment: Key Facts and Conclusions

1. ORV equipment continues to change, posing another challenge for DNR in its trail maintenance and design. Larger and more powerful equipment is being brought to market.
2. Since DNR is but one among a number of landowners/land managers allowing ORV use, it would be difficult for the agency to ban ORVs by horsepower or other specifications without obtaining statewide legislation applicable to landowners/land managers statewide.
3. While none of the reviewed incidents involved 3-wheel ATVs, the team also focused some of its attention on these machines because of national-level information that came to its attention during the course of the review. 3-wheel ATVs have not been manufactured since 1988, at least for use in the United States, the year a federal court approved a consent decree between the U. S. Consumer Product Safety Commission (CPSC) and the ATV industry. The CPSC originally brought suit to require that manufacture of 3-wheel ATVs be halted, that the industry repurchase 3-wheelers from dealer inventories and offer financial incentives to owners of these machines to return them.

4. During the 1980's, rapidly rising numbers of ATV-related accidents, serious injuries, and fatalities led to a number of studies to investigate likely causes. Most concluded that the 3-wheel design was prone to tipping or flipping over. Although manufacture of these vehicles, at least for the U.S. market, stopped in 1988 under the consent decree, there was no recall of these ATVs and some remain in use today. DNR's ATV trails are constructed to be either single-track, suitable for motorcycles, or double-track, appropriate for quad ATVs. The tricycle configuration of the 3-wheel ATVs may not be suitable for either type of trail. Trail use by 3-wheel ATVs can not only be unsafe for render the trails for 3-wheel ATVs, but render the trails unsafe for motorcycles and quad ATVs as well.

Equipment: Recommendations

1. Specify the maximum size of vehicles permitted on various types of trails. Four wheel drive trails, for example, would be defined as being open to vehicles of a maximum size, and not altered to accommodate oversize vehicles. DNR commissioned officers could then cite violators of these rules.
2. Since DNR is but one among a number of landowners allowing ORV use, it would be difficult for the agency to attempt to ban ORVs by horsepower or other specifications by itself. Once again, the statewide ORV Task Force recommended elsewhere in this report would be a more appropriate forum to consider such changes. In this case, it may be fruitful for the statewide effort, recommended elsewhere in the report, to consider working with other states and the industry to agree on some set of industry standards for ORV specifications.
3. Ban the use of 3-wheel ATVs on DNR-managed lands, sending a clear message that these dangerous machines should be retired from use. The statewide ORV Task Force should also address 3-wheeled ATV use in the state.

Communications and Interagency Relations

Definition

This refers to DNR communication and work with other agencies during ORV incident response and program management, communications within DNR regarding ORV incidents, and communications to ORV users regarding their safety.

Key Information and Conclusions

1. Because Natural Resource Investigators and Trail Wardens are on the premises, DNR may be involved in responding to accidents.

2. DNR's incident response role currently includes assisting first responders in finding the location of the accident on DNR trails and roads, and the easiest routes in and out of the forest for response.
3. DNR does not require its personnel to apply first aid or supply response equipment/personnel.
4. DNR does not have standard communication protocols with other agencies in relation to accident response or follow-up.
5. DNR and USFS are the two public land managers providing the greatest opportunity for ORV recreation in the state. There are periodic meetings on this subject between the agencies. DNR uses USFS standards for ORV trail construction on its lands. Expanded cooperation between the two agencies would benefit ORV recreation users by reducing confusion about landowner expectations. There would also be benefits to resource protection and to field staff in both agencies.
6. Response to accident sites can be delayed because of difficulty in locating the site, and radios that are not on the same frequencies as first responders.
7. Local responders do not always provide accident information to DNR, which creates an incomplete knowledge base from which to manage.
8. DNR does not have a policy and procedure related to when and how the agency will exercise its right to express sympathy, and otherwise communicate with them, pursuant to the recently passed state law (RCW 5.66.010).

Communications and Interagency Relations: Recommendations

1. Continue to work with, and increase coordination efforts and incident response training with, local first responders. This includes clarifying the DNR staff's role when an incident occurs such as locating the site of an accident and assisting first aid responders in finding the location of the incident.
2. Establish communications protocols with local emergency responders for use during incident response (e.g. agreed-upon frequencies for radio communications).
3. Initiate contacts with USFS to jointly review each agency's current rules and policies relating to ORV use, with the goal of agreeing on consistency wherever feasible.
4. Take a leadership role in bringing land managers and other relevant agencies, such as DOH and Department of Licensing, together to establish a cohesive effort to address ORV safety. While it is anticipated the statewide

ORV Task Force will address agency interaction, this recommendation recognizes DNR as the leading provider of recreational land for ORV use in the state.

5. Identify when and how the agency will contact family members or victims of ORV accidents to express sympathy or otherwise express concern.

Statewide Factors

Key Facts and Conclusions

1. ORVs are used throughout the state on both public and private lands, including lands owned and managed by DNR, State Parks, the Department of Fish and Wildlife, the USFS, Bureau of Land Management, various local governments, and some private forest landowners.
2. ORV use occurs in highly developed ORV Parks (e.g. Airway Heights ORV Park and Horn Rapids ORV Park), open riding areas and sand dunes (Moses Lake Sand Dunes, Beverly Dunes, Riverside State Park), and on trails primarily located on USFS and DNR-managed lands.
3. ORV use has substantially increased in recent years. As the amount of ORV use has increased, so has the number of ORV-related hospitalizations and fatalities.
4. A dilemma that hinders efforts to improve ORV safety in Washington is the lack of any agency having a clearly defined leadership role. While DNR has the most state land open to ORV use, it has no mandate or financial and staff resources to consider the larger statewide issues. Therefore, it is important that the State of Washington look at the issues surrounding ORV use on all lands in the state.

Statewide Factors: Recommendations

The team recommends the Governor and Legislature appoint an ORV Task Force to study and make recommendations regarding issues related to ORV use within the state. The objective of the Task Force would be to propose new legislation and policies regarding ORV use in Washington.

1. Representation on the Task Force should include:
 - a. Land Managers
 - i. Department of Natural Resources
 - ii. Washington State Parks and Recreation Commission
 - iii. Washington Department of Fish and Wildlife
 - iv. U.S. Forest Service
 - v. Bureau of Land Management

- vi. Local agencies (e.g. Grant County, Spokane County, City of Richland, City of Anacortes)
 - vii. Large natural-resource based private landowners
 - b. Regulators
 - i. Department of Licensing
 - ii. Washington Traffic Safety Commission
 - iii. Washington State Patrol
 - iv. Local law enforcement representatives
 - c. Industry Representatives
 - d. ORV Recreation Funding providers
 - i. Interagency Committee for Outdoor Recreation
 - ii. Washington State Legislature
 - iii. Governor's Office
 - e. User Group Representatives
- 2. Topics to Study and Make Recommendations
 - a. Accident reporting requirements
 - b. Age requirements for ORV riders
 - c. Creation of a landowner/land manager mitigation fund
 - d. Emission standards
 - e. Enforcement options
 - f. Horsepower limits
 - g. Identifying agency roles
 - h. Liability/recreational immunity statute
 - i. License/certification requirements for ORV riders
 - j. Noise regulations
 - k. Personal and property liability insurance
 - l. Program funding sources
 - m. Public information needs
 - n. Safety equipment/personal safety gear
 - o. Training requirements for ORV users or riders
 - p. Use of 3-wheel ATVs
 - q. Use of ORVs on roads

ORV use is just one segment of the motorized recreation industry. It may be beneficial for the recommended ORV Task Force to include snowmobile usage as well.

Section 5: Appendices

Appendix A: Team Member Appointment Letter



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

December 23, 2003

Scott Chapman
Interagency Committee for Outdoor Recreation
Natural Resources Building, 2nd Floor E
1111 Washington St. SE
Olympia WA 98504-0917

Dear Mr. Chapman:

In the past year, the Department of Natural Resources (DNR) has reported to the Office of Financial Management (OFM), through the Loss Prevention Review Team Program, three incidents in which people riding off-road vehicles on DNR-controlled land were seriously injured or killed. In accordance with RCW 43.41.370, I am authorized to appoint a loss prevention review team when an incident resulting in death, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part of state agency action unless, in my discretion, the incident does not merit review. I have determined that the reported incidents merit review by a loss prevention review team.

Thank you very much for agreeing to participate as a member of this loss prevention review team. The team is composed of five members from various disciplines. Members have been selected based on their education, experience, knowledge and job responsibilities relevant to the issues involved in this review, as well as their availability to devote the time necessary to complete the review. The initial meeting of the team is being scheduled to occur within the next few weeks. I anticipate that the review will be complete within ninety days of that first meeting.

The purpose of the loss prevention review team is to review the incident, evaluate the causes and make recommendations regarding agency policies, procedures or processes that may reduce future risk of loss. The review is not intended to determine individual fault or liability but is intended to be a broader look at the agency's systems and procedures. The team is authorized to review documents and interview persons and is required to provide me with a written report containing the team's findings and recommendations within the time period outlined above. To facilitate the review, agencies are required to provide the team with "ready access" to relevant documents and knowledgeable employees. Matthew Krieger of OFM will assist the team by providing resources, coordinating and facilitating meetings and serving as the team's point of contact with the agency.

Scott Chapman
December 23, 2003
Page Two

With this appointment letter, I have enclosed the Loss Prevention Review Team Review Guidelines (Guide). This Guide is designed to assist the team with the incident review. It is not an all-inclusive investigation manual but a resource that contains general and specific information regarding incident reviews that can be used during the review process. The worksheets and checklists are designed as working tools to assist in the review. However, the required format for the team's final report is included as Appendix F, and should be used in writing the final report. I have enclosed copies of the Incident Report Forms as well as other materials we have collected regarding the incidents and other background information. These documents can be used as a starting point for the team's review and should be read before the team's initial meeting. Matthew Krieger will facilitate the initial meeting and answer any questions you may have. The team will be able to begin developing and executing its review plan.

Finally, team members must have no interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with conducting the review. Members must not have any interest that may impair or be perceived to impair the member's ability to conduct a fair and impartial review of the incident. If during the course of the review you discover a conflict of interest, contact Meg Jones, the Loss Prevention Review Team program manager, at 360-902-7357 or meg.jones@ofm.wa.gov.

Again, thank you for your interest and time in participating in this review. If you have any questions either prior to, or during the review process, please feel free to contact Matthew Krieger (360-902-0585 or matthew.krieger@ofm.wa.gov) or Meg Jones.

Sincerely,



Marty Brown
Director

Enclosures

cc: Jim Smego, Risk Manager, Department of Natural Resources

Appendix B: Information Concerning Review Categories

In many instances the team collected a wider range of information for the various categories than was presented in Section 4 of the report; this appendix provides the wider range where it exists.

Program Management

1. Agency program management is underpinned by the authorizing environment of the state's enabling act, constitution, statutes, WAC's, and case law (federal, as well as state), along with agency policies, budget, and the current Commissioner of Public Lands' priorities
 - a. From statehood (1889) until 1971 DNR and its predecessor agencies managed the state's trust land base (approximately 3 million acres) without formal legislative guidance regarding public recreational use
 - i. Public recreational use was incidental and consisted mainly of hunting, fishing, berry/mushroom picking, and firewood gathering
 - b. Due to increased public use, and the public's increased desire to use the DNR-managed trust lands for a variety of recreational purposes, the state's Multiple Use Act (Appendix D) was passed in 1971, which codified DNR's responsibilities for managing public recreational use on the trust lands it administers
 - c. DNR had a large public use program in the 1980's, entering into a number of IAC leases for campgrounds (destination sites) and trail easements (disbursed recreation)
 - i. DNR-managed roads, which were initially designed and maintained for forest land management (logging, timber stand modification, and forest fire prevention and suppression), are also available for use by the motorized recreating public (disbursed recreation)
 - d. Environmental degradation caused by the growing popularity of public recreational use, and the locations of some of these uses, led DNR in the 1990's to focus its recreation program on protection of the environment and protection of the trusts' assets
 - e. DNR centralized its enforcement arm in 2002 in response to "the importing of urban issues" (vandalism, drugs and alcohol usage, drug manufacturing, garbage dumping, violent crimes, environmental impacts, etc.) onto the DNR-managed trust lands
2. Currently, the agency program for public motorized recreational use of authorized roads and trails on DNR-managed trust lands is a subset of a larger agency program called Recreation, which is administered by an Assistant Division Manager (ADM) in Olympia
 - a. This is one of four programs administered by this ADM
 - i. Spends about ½ her time on the Public Use program
 - ii. 5 FTE's for Public Use in the Division
 1. Program dollars (in 1991 dollars) are about ½ of what they were 10 years ago
 2. The last two biennia's reductions due to budget cuts have been in the Division
 - iii. 19-20 FTE's for Public Use in the agency's 6 Regions

1. Over the last 1-1½ biennia the Regions have consolidated fractionalized FTE's among numerous employees into "whole bodies" to leverage shrinking fiscal resources
 - iv. About 1/3 of the agency's Recreation budget is spent on motorized use
 - v. The budget continues to shrink. Current program funding comes from General Fund State (GFS), the Non-Highway and Off-Road Vehicle Account, and NOVA grants, which is administered by IAC. DNR competes for NOVA grants along with other public entities. The legislature did not allot funds to support DNR's GFS funded sites beyond the end of this fiscal year (6/30/04). As of March 11, 2004, DNR has been allotted less than half the amount requested to support those sites for fiscal year 2005.
 - vi. Program relies heavily on volunteers to assist in trail construction (based on DNR approved design), trail maintenance, and protection of the environment and capital improvements (trailhead facilities, etc.)
3. Public Use program manages 1,100 miles of trails, 400 miles of which are for public motorized use
 - a. DNR built or sanctioned trails are standardized in their design and construction/reconstruction, following the guidelines of the US Forest Service (USFS) for motorized recreational trails
 - b. Motorized use includes motorcycles, quads, three-wheelers, and 4-wheel drive vehicles
4. Motorized recreational use also occurs on "most" DNR-managed roads, of which there are over 15,000 miles
 - a. Agency staff didn't quantify the number of miles available
 - b. The number of road miles changes as roads are built, "put to bed," gated, and ungated
5. Operational management of the program is delegated to the Region Managers (RM) by the Commissioner and the Executive Director for Administration. Portions of the program have been delegated to their State Lands Assistant Region Managers by their respective RM's
 - a. The 6 Regions have had quite a bit of autonomy in program administration
 - i. Regions have tailored program implementation and priorities based on local needs and RM philosophies
 - ii. This historical level of autonomy has resulted in the inconsistent implementation of some program components, such as signage (both types and numbers of signs), use of FTE's, gating, usage of DNR-managed roads by the motorized recreational public, public outreach, and enforcement

- iii. A number of riders are event driven and run into program implementation inconsistencies between Regions as they travel around the state
 - b. The ADM and staff have little to no contact with user groups, other state and federal agencies, or private landowners, with similar land use activities. This is seen as the responsibility of the RM's in their respective locales
 - i. There is no centralized point of contact within DNR for statewide development of program emphasis and statewide communications with other agencies and landowners
- 6. There is only one agency policy regarding public use on DNR-managed lands (entitled Public Use on DNR-Managed Lands, and numbered PO10-002), which was enacted in 1998. Part of its stated purpose is to, "...provide general guidance for managing public use." Its emphasis is on ensuring compatibility with trust obligations and on not impairing public resources
- 7. DNR has a strong sense of responsibility regarding public safety on the lands it manages, but there are no written policies regarding this matter
 - a. Some of this sense of responsibility is focused on protecting different types of users from each other (gun users from other recreationists, recreationists from vandalism and violent crimes, recreationists from drug manufacturers/growers, etc.)
- 8. Program emphases are on education of users regarding operating in a legal manner (ensuring machine is street legal or is displaying a current ORV registration sticker, has an approved spark arrester, etc.), and in ways to minimize environmental impacts (by staying on trails, staying out of water courses, etc.)
 - a. These duties have been one of the responsibilities of the agency's 3-4 trail wardens, who have limited police powers and have limited training in enforcement procedures. 2-3 of these positions lose their funding this spring and will be eliminated
 - i. Although there will be less ability to emphasize on-the-ground education when these positions are eliminated, Natural Resource Investigators (NRI) and field staff are also responsible for interacting with users to ensure compliance with these requirements. NRI's regularly attend group events, especially to educate participants about requirements and to check for legal vehicles.
 - b. Southeast Region has created (and will be filling soon) a new Recreational Forester position to coordinate its motorized and non-motorized programs, both internally, with other Southeast Region staff, and externally, with user groups' representatives
- 9. Part of DNR's 5-6 investigators' duties include enforcement of the Multiple Use Act, related WAC's, and laws of general applicability on DNR-managed trust land. These officers are trained in law enforcement, wear uniforms, operate marked vehicles, possess broad police powers, are armed, and have communications links with other law enforcement officers

- a. The investigator unit has a detailed operations manual, describing their mandate and focusing on enforcement procedures
 - b. The investigators share information weekly and meet for 2-3 days quarterly for training and more detailed information sharing
 - c. The investigator unit created and filled a public outreach position in December. Duties include meeting with representatives of recreation user groups, other agencies, and landowners with similar issues
10. The Commissioner wants the agency's Public Use program to be proactive and responsive to the public's desire for greater recreation opportunities on DNR-managed land
- a. There is a sense, backed by some field data (trail counters, counting weekday/weekend users, increased requests for organized events, etc.), that the motorized recreational use of DNR-managed trust lands has been growing very rapidly in the last 5 years and is projected to continue doing so for the foreseeable future
 - b. The Commissioner obtained legislative support to introduce a bill creating a new trust, to be managed by DNR, and whose revenues would be used to support the Public Use program
 - c. The Division began the coordination of quarterly inter-Region meetings with the 4 Regions on the west side of the Cascades about 1½ years ago. The investigation unit is a part of this process. The purpose is to create consistency in program implementation. The target for achieving major milestones (example: signage) is the end of CY 2004
 - d. The 1998 policy is scheduled to be updated by this summer. A draft is being reviewed by the Regions, with comments due this spring
 - i. Currently there is no external focus to explore potential for cross agency/ownership consistency and potential leverage of limited resources related to ORV recreation sites
 - e. Division staff and Region staff are beginning a review and updating process of governing WAC's. A target for completion is the end of CY 2004
11. The Public Use program doesn't have explicit policies or guidelines regarding direction for minimizing public recreation user accidents
- a. Agency reasons for no explicit policies or guidelines include: its roads are constructed and maintained for the purpose of trust land management and environmental protection, its recreation trails are built to USFS standards, the sport has inherent risk, the recreational immunity statute, and the 2001 state Supreme Court decision
 - b. DNR states, "The department and Recreation program have guidelines for designing, building, and constructing roads and trails to provide safe recreation opportunities and facilities. The intent of those guidelines is to minimize the risk to users. Standards have been developed with user safety as one of the primary goals."
12. The Public Use program doesn't currently have explicit policies or guidelines for responding to reported accidents, or for promoting notification of the

agency when public recreation user accidents occur on DNR-managed trust lands

- a. Agency reasons for no current explicit policies or guidelines include: the responsibility of first responder resides with local law enforcement (typically the county sheriff's department) and aid services (typically rural fire districts)
 - b. DNR states, "The department does have a protocol and a draft standard operating procedure (PR 22-001 draft) regarding steps to respond to serious or fatal accidents. The NRI investigates and sends copies to the Chief Investigator, the Region Manager, and the department's Risk Manager. The Chief Investigator notifies the Region Manager who notifies Executive Management."
13. When DNR is aware of a public recreationist accident occurring on the trust lands the agency manages a report, known as an IIR (Initial Incident Report), is completed. Upon conclusion of the field investigation the report is forwarded to the investigators' unit. The computer tracking system is being repopulated (the program lost all data about a year ago). There is currently no way to query the data to determine trend lines; numbers of accidents by vehicle category, location, type of road or trail, etc.
- a. DNR staff believe they don't hear about many of the accidents occurring on the lands it manages
 - b. DNR created a Critical Incident Review Team last year, consisting of a member of its Executive Management, its Risk Manager, its Program Manager, the agency's Chief Investigator, and local field staff where the accident occurred. This team hasn't yet developed procedures for sharing the "lessons learned" with other relevant components of the agency.
 - c. DNR states, "While there is no specified methodology for communications of findings regarding accidents, the information has been shared through a number of avenues to a variety of staff engaged in public use/recreation management. Region Managers have monthly meetings that often include discussion of critical incidents when appropriate, the NRI's meet at least quarterly to review investigations, ORV/ATV use throughout the state, and to discuss ways to minimize accidents and educate users. Recreation staff from individual Regions meets to discuss a variety of recreational activities including best management practices to avoid problems in the future."

Agency Risk Management

1. DNR has a Risk Manager for the agency who is attached to the Financial Management Division in Olympia
 - a. DNR has had this position since the early 1990's
 - b. This position handles tort claims and insurance issues (procuring commercial policies, drafting and reviewing contract language requirements) and provides risk analysis upon request of programs

- c. This position does not have responsibilities to assess risk and implement risk management policies/procedures/guidelines for the Recreation program (including recreational motorized vehicle users)
- 2. DNR has a Safety Officer for the agency who is attached to the Human Resources Division in Olympia
 - a. This position handles L&I worker compensation claims issues and is responsible for employee safety training (first aid, etc.), the agency's wellness program, and driver safety, including defensive driver training (internally focused on agency employees)
- 3. Each work unit in the Divisions (Olympia) and the Regions has a safety committee, which is focused on employee safety and health issues
- 4. The Recreation program in Olympia has minimal risk management responsibilities regarding program implementation
- 5. DNR policy PO10-002, entitled Public Use on DNR Managed Lands, emphasizes minimizing risk to the environment and to the trusts' assets when permitting organized recreation events to occur on these lands
- 6. The Region Managers, through the Delegation of Authority memo from the Commissioner of Public Lands and Executive Management, have the majority of the program's risk management responsibilities
 - a. Although the Region Managers have delegated program administration to their respective State Lands Assistants, they still retain most risk management responsibilities
- 7. DNR's approach to risk management for motorized recreational users on the trust lands it manages is founded on state legislation and case law
 - a. RCW 4.24.200 and RCW 4.24.210 – Liability of Owners or Others in Possession of Land and Water Areas for Injuries to Recreation Users, also known as the Washington recreation immunity statute (Appendix E)
 - b. *Davis v. State of Washington and Grant County (#98-2-01796-3)*, ruled on by the State Supreme Court in 2001 (Appendix F)
- 8. Given the information received DNR is not aware of the numbers of accidents occurring on the lands it manages
 - a. The numbers provided by DNR are lower than those provided by other entities
- 9. A review of IAC leases suggests DNR, through its Supervisor, has contractually agreed to protect the Commissioner of Public Lands, the Board of Natural Resources, and the trusts' assets against liability resulting from the lawful use of the IAC lease areas

DNR ORV Trails

- 1. DNR has 1,154 miles of DNR system trails located on land it manages. One of the three accidents examined by the Loss Prevention Review Team included a motorcycle accident occurring on a DNR trail.
- 2. DNR uses USFS standards for trail design, construction, and maintenance.

3. User groups built many of the DNR system trails. There are many user built trails within the trail system, however, those that are managed and maintained by the department are built using program guidelines and with oversight by program staff.
4. There are user built trails on DNR land that DNR has not included in its system trails.
5. Because of the large number of trails and funding/staff constraints, DNR is unable to inspect and maintain trails as much as they would like. The ORV managed trail areas do receive regular inspection and maintenance.
 - a. DNR depends a lot on users to report trail problems to DNR staff. Certainly, our users, who also volunteer hundreds of hours of time to help maintain and repair trails are often the best source of information for where problems occur.
6. Some DNR staff believes tougher trails may be safer trails.
 - a. With many beginner riders, DNR is not sure when tougher trails become too tough.
7. Some users feel that trails should be designed to slow down riders.
8. DNR does not have a statewide trail sign plan; therefore, trail signing is not consistent among regions/forests. The program has established a west side sign group that has developed several sign designs and wording that are being used across regions. Unsure if eastside regions are using signs.
9. Most of the trails were original built for motorcycles (single track) or for four wheel drive vehicles.
10. Many single-track trails have become double-track trails as the result of ATV use. The result is a trail that is suitable for ATVs but may not be suitable or as safe for motorcyclists.
11. Except as designated during specific events, trails are open to two-way traffic.
12. An ever-increasing number of ORV recreationists (particularly ATV) are using a finite number of trails.
13. The Tahuya has a “no new trails” policy.
14. The Tahuya added warning signs at trailheads that mention the number of fatalities and serious accidents known to DNR.
15. The Tahuya staff color-coded trail maps on bulletin boards to show allowed vehicle use (motorcycle only, ATV/motorcycle, four wheel drive)
16. USFS identified the trail difficulty level on maps and at trailheads.
17. DNR provides almost all the dedicated public 2-track ATV Trails opportunities in the State. While the USFS has hundreds of miles of four wheel drive trails that are open to ATVs, they have less than one hundred miles of trail built for ATV use.
18. Many trails were not built for the current technology.

DNR ROADS

1. DNR has thousands of miles of management roads located on land it manages. Two of the three accidents examined by the Loss Prevention Review Team included ATVs driving on DNR roads.

2. Those roads were primarily designed and built for timber extraction and resource protection (fire control).
3. DNR has 143 recreation sites (campgrounds, picnic facilities, trailheads, view points, etc.), many of which are located off DNR management roads.
4. Private timber companies use DNR roads to access their lands as the result of the checkerboard land ownerships.
5. Many roads have gates that can be used to control or prevent vehicular access.
6. Some gates on DNR land may provide access to private land.
7. Some gates on private land may provide access to DNR land.
8. Many roads have been closed due to inappropriate public use and environmental problems (vandalism, meth labs, garbage dumping, abandoned vehicles, shooting, etc.)
 - a. DNR does not drive all roads on daily basis and therefore may not know of recent problems (vandalized gates, washouts, down trees, etc.)
 - b. Department roads are built and maintained for forest management activities and are open to public use.
9. DNR reported that roads are on a “use-at-your-own-risk” basis.
 - a. DNR does not have the staff to immediately fix reported recreational related problems, however, DNR does identify priorities for staff.
 - b. DNR hears of problems from other road users (recreationists, contractors, etc.)
10. Roads are two directional.
11. There is no state law that prohibits unlicensed vehicles from operating on DNR management roads.
 - a. Unless closed, all DNR roads are open to street licensed passenger vehicles including motorcycles and 4x4 vehicles.
 - b. Recreational vehicles (licensed or unlicensed) share the road with logging trucks, recreationists, and other users of forest roads.
12. State law does not require the rider of an unlicensed ORV to be licensed (current drivers license).
13. DNR may allow ORVs to use DNR management roads.
14. Different regions and/or different forests have different policies regarding ORV use of DNR roads. The following information is from DNR maps:
 - a. Tahuya State Forest – Only licensed drivers and street-legal vehicles are allowed on county and DNR management roads. Speed limit is 25 MPH.
 - b. Capitol State Forest – Speed limit is 25 MPH. (ORVs are not prohibited from using DNR roads.)
 - c. Ahtanum Multiple Use Area – Only licensed drivers and street-legal vehicles are allowed on county and DNR management roads. Speed limit is 25 MPH.
 - d. Jones Creek Trail Map 1995 – Only licensed drivers, street-legal vehicles, or valid ORV-tagged vehicles are allowed on DNR Roads. Speed limit is 25 MPH.

- e. Walker Valley Trail Map 1995 - Only licensed drivers, street-legal vehicles, or valid ORV-tagged vehicles are allowed on DNR Roads. Speed limit is 25 MPH.
 - f. Little Pend Oreille Trail Map 1995– Speed limit is 25 MPH. (ORVs are not prohibited from using DNR roads.)
15. The US Forest Service in Region 6 (Oregon and Washington) allows only street licensed ORVs to use forest roads.
 16. Some state Department of Fish and Wildlife lands are managed under the “Green Dot Road Management System”. Roads open to motorized vehicles including ORVs are posted with a green dot on a white route marker.
 17. ORV users do not always know who owns and manages the land where they are riding.
 18. ORV recreationists using roads can typically travel faster than they can on trails.
 19. DNR reports that the department cannot ensure roads are safe at a prescribed speed. DNR’s roads have not been engineered to prescribed speeds or designed for use by recreational users. Department roads are built and maintained for forest management activities and are open to the public on a “use-at-your-own-risk” basis.

ORV Users

Users in General

1. There is an inherent risk associated with ORV recreation.
2. There is no age requirement to operate an ORV on DNR managed lands.
3. Users are involved in trail maintenance and trail building on state lands.
4. There has been a large increase in the number of ATV users.
5. Large increase in ORV family use.
6. Experienced and inexperienced riders are using the same trails.
7. More single riders – not members of organizations.
8. Demographics of ATV users are very broad – young and old, male and female, etc.
9. Motorcyclists are more likely to be male and younger than other ORV users.
10. Not all users think one-way trails are a good idea.
11. Technology has created more powerful machines.
12. Safety equipment has been improved in recent years.
13. Users buying new ATVs get incentives to take training – no comparable incentives for motorcyclists and snowmobilers.
14. Many accidents happen within the first ½ mile of trailhead.

User Groups

1. ATV users are not as well organized as motorcyclists and 4x4 users.
2. DNR believes that those users that belong to user groups tend to act more responsibly (e.g. safer, more environmentally friendly).

3. DNR meets with users and user groups – provides a forum for DNR to communicate regarding use of DNR managed lands, such as trail closures, timber sales, event use, vandalism, accidents, etc.
 - a. South Puget Sound Region - monthly focus groups with users in the Tahuya; starting a focus group of both motorized and non-motorized users of the trails in Elbe Hills.
 - b. Pacific Cascade Region - Trails Advisory Group (TAG) meetings are held every other month with all trails users of the Yacolt State Forest
 - c. Pacific Cascade Region - Capitol Forest Advisory Group meets three to four times a year with both trail and non-trail related interest groups
 - d. Olympic Region – Meets periodically with the Burnt Hill Focus Group
 - e. Northwest Region – Use to hold user meetings every other month. Now works with a small core group of users and neighbors on developing plans for the Walker Valley ORV area. DNR staff attends Snohomish ORV Club meetings in Everett about every other month to discuss land use issues. The Region e-mails information to one hundred or more users as needed.
4. Organized groups tend to self-police.
5. There is minimal safety emphasis on the public user groups' websites, as indicated by the following:
 - f. WA ATV web page: *"Show respect by riding responsibly with in your skill level, never ride alone and share the riding areas with other responsible users!"*
 - g. No safety message was found on the Northwest Motorcycle Assoc. or the Pacific Northwest Four-Wheel Drive Association web sites.
6. One-way trails are OK during events.
7. One-way trails require more extensive signing.
8. Some user groups stated that trail wardens were more important than DNR Investigators
9. At Riverside State Park, State Parks set up a user training area for novice riders.

Equipment

1. ORV equipment continues to change in the market.
2. DNR has developed trails for various ORVs to use: single-track trails for motorcycles, double-track trails for ATVs, and four wheel drive trails. All were designed for vehicles of varying size and capacity. Nothing prevents users from riding ORVs on trails not intended for their vehicles.
3. Repeated use can lead to the nature of the ORV trail being radically altered (from single-track to double-track, for example), or to resource damage, as occurs when oversize ORVs avoid a narrow bridge by traveling directly through a stream.

4. 3-wheel ATV's have not been manufactured since 1988, the year a federal court approved a consent decree between the U. S. Consumer Product Safety Commission (CPSC) and the ATV industry.
5. The CPSC originally brought suit to require that manufacture of 3-wheel ATVs be halted, that the industry repurchase 3-wheelers from dealer inventories and offer financial incentives to owners of these machines to return them.
6. During the 1980's, rapidly rising numbers of ATV-related accidents, serious injuries, and fatalities led to a number of studies to investigate likely causes. Most concluded that the 3-wheel design was prone to tipping or flipping over.
7. Although manufacture stopped in 1988, under the consent decree, there was no recall of these ATVs, and some remain in use today.
8. DNR's ATV trails are constructed to be either single-track, suitable for motorcycles, or double-track, appropriate for quad ATVs.

Communications

1. Some local Rural Fire Districts state they have difficulty communicating via radio with DNR personnel due to DNR radio upgrades.
2. DNR is willing to maintain an open wide range radio communications for the RFDs and others.
3. In Clark County, DNR has radio compatibility issues with other agencies. DNR can talk with agencies that use the VHF radio frequency band. In many parts of the State, agencies have moved from the VHF radio band, which DNR uses, to the UHF or 800 MHz bands. In all these areas, DNR does have radio compatibility issues.
 - a. DNR is working with the State Interoperability Executive Committee (SIEC) to help resolve these issues. Agencies using the VHF frequency band cannot talk to agencies using different bands.
4. Tahuya State Forest has radio dead spots that limit radio communication. Topography around the state does limit radio coverage in certain areas.
 - a. In order to eliminate all dead spots, DNR would need to spend millions of dollars for additional radio repeaters around the state.
 - b. DNR works hard to identify radio dead spots and provide coverage if at all feasible.
5. DNR and other local agencies can access Washington State Patrol LERN (law enforcement radio network).
6. All of DNR is transitioning from current analog radio system to narrow radio bandwidths. DNR remains on the VHF frequency band. There is an FCC ruling that the VHF frequencies move from wide band to narrow band, which is what DNR is doing. Some of its channels are narrow band and some remain wide band.
 - a. DNR personnel can communicate with agencies that are capable of only wide band radio communications.
7. Mason County RFD #2 stated that changing the radios they currently have is beyond its current budget and staffing capability.

- a. DNR states that there is no need for the RFD to get new radios at this time. They can still communicate with DNR using the wide band channels.
 - b. DNR stated that within the next 10 – 15 years FCC regulations will likely make it necessary for all RFD's to get new radios; however, this may be accomplished with normal radio replacement cycles.
8. Agencies are often not aware of accident or injury responses made by other agencies.
9. There is no agreed upon "response" frequency in the Tahuya area for all first responders and DNR staff for communication purposes.
10. Even though all agencies recognize the incident command structure, it is not used at all times, potentially creating confusion when there is a serious injury or accident in the forest.
11. DNR investigators do not investigate all accidents that occur on DNR land either due to the determination about the severity of incident, or lack of knowledge of incident.
12. There is a new process within DNR to review all serious accidents or deaths occurring on state managed lands. Executive management recently agreed to convene an incident review group at the headquarters office to review the serious accidents or a death.
13. While there is a recently implemented process for DNR to review all serious accidents or deaths, the findings of these reviews regarding accidents, lessons learned, and best practices are not shared with other regions. While there is no specified methodology for communicating findings regarding accidents, the information is shared through a number of avenues to a variety of staff engaged in public use management.
14. Region managers have monthly meetings that include discussion of critical incidents when deemed appropriate.
15. The Natural Resource Investigators meet at least quarterly to review investigations, ORV/ATV use throughout the state and discuss ways to minimize accidents and educate users.
16. Recreation staff from individual regions meet to discuss a variety of recreational activities including best management practices to avoid future problems.
17. DNR does not have a consistent procedure to communicate with the families of an injured or deceased individual.

Authorizing Environment

1. The Commissioner of Public Lands, a statewide elected official, is the chief executive of DNR. The Board of Natural Resources establishes policies to guide DNR in managing lands and resources. Various other boards and commissions, such as the Forest Practices Board and the Forest Fire Advisory Board, affect and/or are involved with agency policies and practices.
2. DNR has agency-wide policies on Public Use on DNR Managed Lands.

3. DNR is currently reviewing some of the agency policies and WAC for possible revision.
4. There is a wide level of awareness, from top management to the wardens and recreational foresters in the various regions, regarding the “Multiple-use Act” and the Davis v. State of Washington and Grant County State Supreme Court decision based on the recreational immunity statute.
5. DNR believes it is “protected” from lawsuits based on the “recreational immunity statute” RCW 4.24.200 and 4.24.210 Liability of Owners or Others in Possession of Land and Water Areas for Injuries to Recreation Users.
6. Staff and managers also fully aware of the statute that they cannot charge fees for public use of managed lands without compromising their recreational immunity. The interpretation is a long time understanding from the Attorney General’s Office about charging for use of land and liability. The DNR has not received a formal Attorney General Office Opinion on this issue, but has received several informal advisory memos on this topic.
7. Based on the Supreme Court Decision (Davis v. State of Washington and Grant County - #98-2-01796-3), DNR has determined that they are protected from liability of all recreational users on DNR managed lands, given the conditions in RCW 4.24.210.
8. DNR sees the primary tier of the multiple use act as the management of trust land assets.
9. Policy is that the public has access to the state managed lands unless they impact the trust financially.
10. No policy exists on requirement for accident investigations. DNR states it does have a protocol and a draft standard operating procedure (PR 22-001 draft) regarding steps to respond to serious or fatal accidents.
11. 36% of the NOVA funds currently go to DNR.
12. Other states are facing similar issues of increased accidents and deaths related to ORV use.
13. To meet its need for additional funding for ORV use on DNR lands, DNR will have to either use current level funds and re-allocate the use from other funding sources or pursue grant funding to help support ORV activities.
14. The Commissioner of Public Lands has proposed that the State consider establishing a new trust to benefit recreational use of state lands.
15. Society has the expectation that there is a safe place to ride ORVs.
16. The industry believes that the “public/state” will provide a place for people to ride ORVs.

Staff Resources

1. Interviewed staff believe they have the equipment and training resources to do their job.
2. Volunteers and special interest groups help with trail maintenance and trail renovations.
3. Any funding the program receives is not targeted to public safety training.

- a. DNR states that field staff and Education and Enforcement officers' time is concentrated on one-on-one education of ORV users.
 - b. In an organized event on DNR land, both small and large groups at the trail heads get a safety talk by an officer or supported by an officer.
4. Funding that is received is used for staffing and staff training in their occupational areas of expertise, e.g. forest management. Recreation foresters get training as appropriate in recreation related subjects (basic first aid, trail maintenance).
5. Trail maintenance assistance from DOC is now limited due to cost – support from the “Honor Camps” for DOC are approximately \$500 per day per crew.
6. DNR has 19-20 field FTEs for the recreational program. They are consolidating the “partially funded positions” into full FTEs.
7. Funding for the recreational program is mostly from the NOVA program either in the form of grants or direct appropriations. The recreation program is dependent on grants for the maintenance program.
8. Based on interviews, some user groups would prefer to have more “wardens” on site while the agency is leaning toward more enforcement officers.
 - a. DNR states that the enforcement officers have a broader range of authorities and create a presence to deter unwanted activities. The grant supported investigator positions will be dedicated proportionally to particular ORV areas for enforcement and education activities.
9. Wardens become the “experts” on the trails and are a reference for users.
10. It is easier for the public to identify with the wardens. The warden is “education” based related to the DNR land use.
11. Enforcement officers are more costly per FTE, and cover a larger geographical area with fewer people.
12. When the budget was continually reduced, the headquarters reduced staff and moved them to the field to maximize service to the public and ensure the highest quality facilities and staffing possible.

Staff Training

1. All enforcement officers come with nationally recognized police academy training or are sent to academy training.
2. Enforcement officers receive an additional 40 hours of in-service training each year.
3. All training for enforcement officers is about 100 hours total per officer per year.
4. Enforcement officers do receive instruction for riding ORVs before they are allowed to ride them.
5. DNR reported that one of the many benefits in the shift from trail wardens to enforcement officers is for employee safety.
6. Most DNR staff including trail wardens are trained in basic first aid and CPR.
7. Recreational foresters and wardens do receive some training throughout the year in their respective recreation occupational areas.

8. Agency staff and executive management do not view “first responder” training within the scope of the agency’s responsibility.
9. The enforcement staff receive training similar to other officers in law enforcement including how to handle difficult situations and difficult people.

Appendix C: DNR Public Use Program Funding

DNR – Recreation Program Funding History

Recreation								
Year	Annual Allotment Level					Biennial Allotment		
	FTE	GF-S	Other	Operating Total	Capital	FTE	Operating	Capital
FY90	28.8	485,783	1,314,530	1,800,313	1,609,198			
FY91	30.2	501,440	1,415,752	1,917,192	103,544	29.5	3,717,505	1,712,742
FY92	34.9	593,378	1,761,823	2,355,201	176,958			
FY93	33.9	544,251	1,401,020	1,945,271	75,000	34.4	4,300,472	251,958
FY94	27.8	518,833	1,366,124	1,884,957	227,250			
FY95	27.8	518,083	1,333,234	1,851,317	402,750	27.8	3,736,274	630,000
FY96	28.4	482,756	1,348,651	1,831,407	273,450			
FY97	34.2	488,123	2,036,339	2,524,462	670,650	31.3	4,355,869	944,100
FY98	34.3	446,459	1,868,918	2,315,377	269,990			
FY99	34.9	445,261	1,931,545	2,376,806	450,010	34.6	4,692,183	720,000
FY00***	33.2	635,917	1,752,020	2,387,937	304,500			
FY01***	33.2	464,400	1,961,400	2,425,800	245,500	33.2	4,813,737	550,000
FY02	27.7	427,800	1,532,600	1,960,400	48,075			
FY03	27.5	214,000	1,547,300	1,761,300	291,925	27.6**	3,721,700	340,000
FY04*	24.2	450,000	1,400,000	1,850,000	91,500			
FY05	21.4	200,000	1,400,000	1,600,000	133,500	21.7	3,250,000	225,000

*FY04 includes \$450,000 in NOVA capital funds that were used in lieu of general fund dollars.

**Staffing reductions were primarily in division staff.

***FTE #'s include some enforcement staff.

NOTE: All numbers are based on agency allotments.

Funding and staffing have shown some decrease over the past 14 years. However, in real terms (dollars & capacity) the change has been dramatic. Staff levels compared to use levels have resulted in a large decrease in capacity to manage and maintain recreation on DNR lands.

Staffing Changes

DNR Recreation Program FTE's			
Region/Division	FTE's FY 2000*	FTE's FY 2004**	Net Change '00 - '04
<i>Pacific Cascade</i>	<i>5.11</i>	<i>4.79</i>	<i>-0.32</i>
<i>Northeast</i>	<i>2.72</i>	<i>2.83</i>	<i>+0.11</i>
<i>Northwest</i>	<i>2.52</i>	<i>2.79</i>	<i>+0.27</i>
<i>Olympic</i>	<i>1.76</i>	<i>1.29</i>	<i>-0.47</i>
<i>South Puget Sound</i>	<i>5.36</i>	<i>4.92</i>	<i>-0.42</i>
<i>Southeast</i>	<i>2.32</i>	<i>2.05</i>	<i>-0.27</i>
<i>Division</i>	<i>8.4</i>	<i>5.53</i>	<i>-2.87</i>
Statewide Total	28.19	24.19	-4.00

*Numbers based on FY00 allotments 361-365 less 362, 363

**Numbers based on FY04 allotments

2000 Division Staff (9 staff)

- Assistant Division Manager
- Section Administrator
- Maintenance & Operations Coordinator
- Land Technician – M & O
- Volunteer Coordinator
- Parks Planner 3 (NE, NW, OLY)
- Parks Planner 3 (SPS, SE)
- Parks Planner 3 (CEN, SW)
- Parks Planner 1 (Statewide)

2004 Division Staff (5 staff)

- 30% of an Assistant Division Manager
- Section Administrator / PP3 Combined
- Land Technician – M & O
- 60% of a Volunteer Coordinator
- Parks Planner 3 – *Vacant*
- Parks Planner 1 (Statewide)

Recreation Program Funding Summary with Grants

FY2003 Recreation Program Budget		
IAC NOVA Grant Proposals	\$777,618	27%
NOVA Direct Appropriation-Operational Funding	\$1,342,000	47%
Non-NOVA Operational Funding	\$419,200	14%
Non-NOVA Capital Funding	\$340,000	12%
TOTAL PROGRAM BUDGET	\$2,878,818	100%

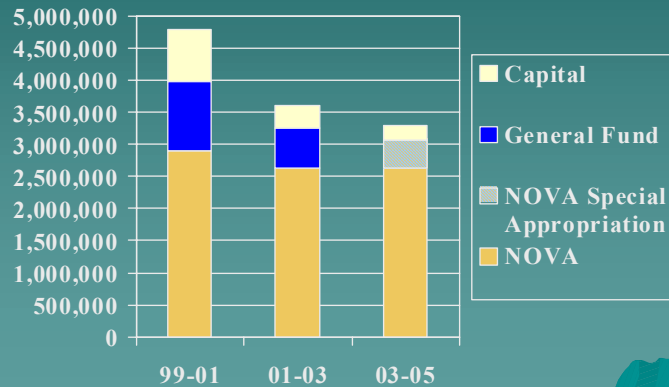
FY2004 Recreation Program Budget- Projected		
IAC NOVA Grant Proposals-Estimated	\$400,000	16%
NOVA Direct Appropriation-Operational Funding (includes special appropriation)	\$1,758,850	71%
Non-NOVA Operational Funding	\$91,000	4%
Non-NOVA Capital Funding	\$225,000	9%
TOTAL PROGRAM BUDGET	\$2,474,850	100%

Funding Trends

DNR Recreation Program Funding

Used to operate all recreational facilities

(Numbers do not include grants or management funds)

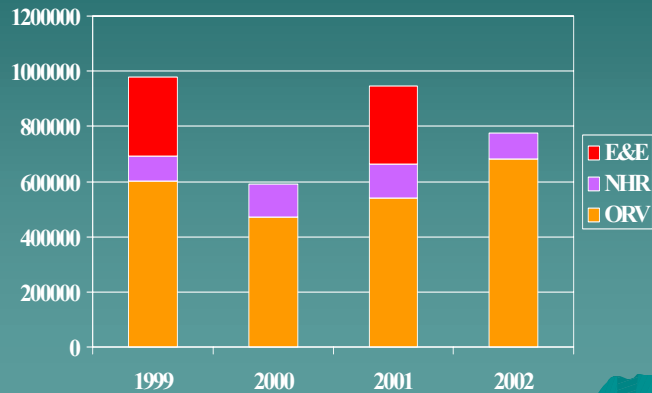


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Recent Grant History

DNR NOVA Grants

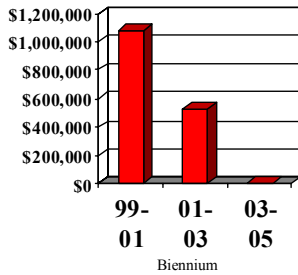


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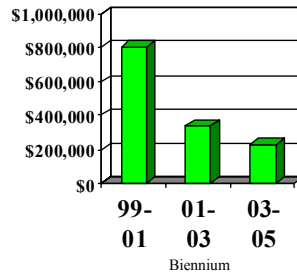
Trends Affecting DNR's Recreation Budget

**Recreation Program
General Fund
Dollars Eliminated***



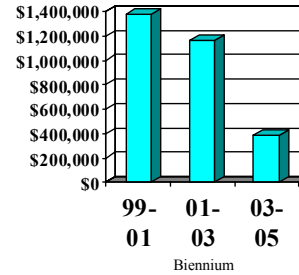
*Historically these funds have been used to maintain and operate Non-NOVA recreation facilities

**Recreation Program
Capital Budget
Diminished***



*These dollars typically are used for trail bridge and toilet replacements, health & safety projects, ADA upgrades, and emergency repairs

**WCC Program
& Budget
Diminished***



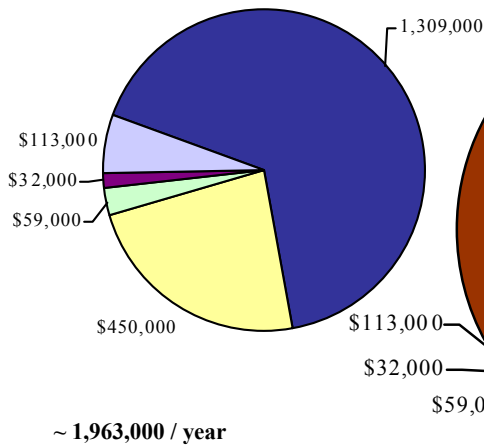
*Approximately 80% of DNR's WCC program provides site & trail maintenance

Department of Natural Resources - NOVA Committee Presentation - 10-9-03

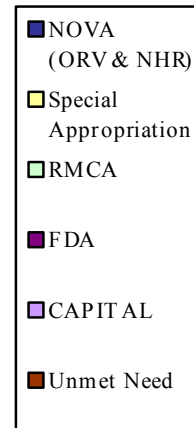
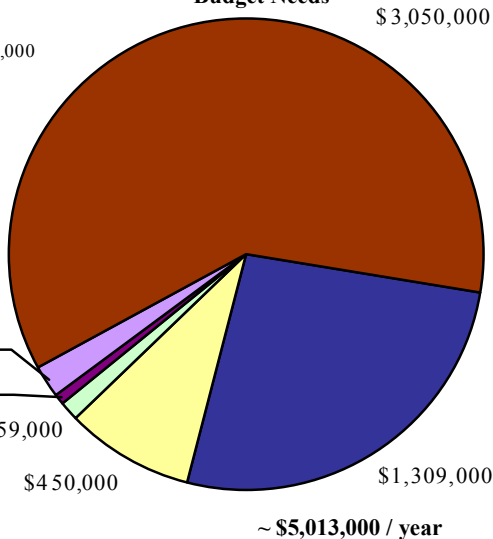
DNR's Recreation Program

budget & needs (not including grants)

**Existing Recreation Program
Budget (FY '04)**



**Existing Recreation Program
Budget Needs**



*Current budget items are based on FY04 allotments. All numbers are estimates, rounded to the nearest thousand. Numbers are based on the latest data available.

Department of Natural Resources - NOVA Committee Presentation - 10-9-03

Recreation Facility Summary

DNR RECREATION SITES <small>(3/03)</small>									
Sites	CEN	NE	NW	OLY	SPS	SE	SW	Total	%
ORV- Motorized	2	3	1	2	4	2	2	16	11%
NHR- Non-Motorized*	9	11	17	7	17	11	9	81	57%
Other Funded**	10	10	9	6	9	1	1	46	32%
TOTAL	21	24	27	15	30	14	12	143	TOTAL

DNR RECREATION TRAILS <small>(3/03)</small>									
Maintenance Fund	CEN	NE	NW	OLY	SPS	SE	SW	Total	%
ORV	87	30	30	14.5	187.5	23	17	389	34%
NHR	75	.4	66.3	2.7	125	0	61	330.4	29
Other Funded** <small>(includes winter)</small>	11.3	33.3	18.1	1.3	226	0	144.8	434.8	38%
TOTAL	173.3	63.7	114.4	18.5	457.3	249	78	1154.2	TOTAL

* NHR funds are also used to maintain ORV campgrounds (motorized) that are located on non-highway roads.

**Historically this has been primarily state general fund dollars.

DNR ROADS	
Road Category	Total (Est.)
Roads with DNR maintenance responsibility	14,000 miles
Roads open to for public access opportunities (vehicular & non-vehicular)	13,000 miles
Amount of NOVA funding currently used for road maintenance (annual)	\$158,500
Annual cost of DNR road maintenance per year	\$8-9,000,000

Appendix D: Materials from State of Maine

Task Force Report

Accident Reporting Forms





“The damage caused by these vehicles poses the greatest threat we have ever faced to Maine’s multi-generation tradition of an open landscape.”

Steve Brooke,
Farmingdale

“I’m disabled, but as a result of my ATV, I get out and go to places that I haven’t been able to go for many, many years.”

Bud Nicholson,
Fort Fairfield

“When you buy an ATV, a God-given right to ride it anywhere does not come with it.”

Vernon DeLong,
Presque Isle

“Most of us riders are responsible, respectful people who just want to get outdoors and enjoy our sport.”

Bill Jamison,
Bangor

ATV SOLUTIONS



*Recommendations
of Gov. John Baldacci’s
ATV Task Force*

Dec. 19, 2003

Contact: Roberta Scruggs,
ATV Task Force Coordinator
Phone: 207-336-3323
Email: rscruggs@megalink.net
Cover Photo by Mark Latti

Table of Contents

ATV Task Force members	4
Executive summary	5
Task Force goals	7
Recommendations to protect landowners	8
Recommendations for law enforcement	11
Recommendations for expanding trails	17
Recommendations to improve safety	22
Recommendations for funding	27
Appendix A: Profile of Maine ATV operators	32
Appendix B: Action plan for recommendations	36
Appendix C: Draft Law Enforcement Grant Program	43

ATV Task Force

Paul Jacques, Task Force Chairman,
Deputy Commissioner,
Inland Fisheries and Wildlife

Peter Mosher, Director,
Agricultural, Natural
and Rural Resources,
Department of Agriculture

Brian Bronson,
Off Road Vehicle Division,
Department of Conservation

Mike Mullen,
Bureau of Land and Water Quality,
Department of Environmental Protection

Lt. Jeffrey C. Trafton,
Maine State Police,
Department of Public Safety

Dan Mitchell, President,
ATV Maine

Tom Carter,
Sportsman's Alliance of Maine

Jon Olson, Executive Secretary,
Maine Farm Bureau

Gary Donovan,
Maine Forest Products Council

Carl Van Husen, Small Woodland
Owners Association of Maine

Sally Jacobs,
Maine Coast Heritage Trust

Nancy Sferra,
Director of Science and Stewardship,
The Nature Conservancy

Dave Henderson, President,
Star City ATV Club

Jeffrey Austin,
Legislative Advocate,
Maine Municipal Association

Rod Whittemore,
Recreational Motorsports Association

Additional subcommittee members

Trails

Donna M. Bean, Central Maine Power

Education/Safety

Michael Sawyer, IFW Recreational,
Safety and Vehicle Coordinator

Bob Higgins, ATV Safety Institute

Fred Huntress, Maine Forest Products Council

Law Enforcement

Kenneth "Doody" Michaud,
Chief, Fort Kent Police Department

Col. Tim Peabody,
Chief, Maine Warden Service

Thomas H. Jones,
Chief, Sanford Police Department

Bill Williams, Director,
Forest Protection Division,
Maine Forest Service

Everett B. Flannery Jr.,
Sheriff, Kennebec County

Jim Lyman,
Maine Criminal Justice Academy

Executive Summary

Mainers are using all-terrain vehicles (ATVs) for work and for play, on farms and in the woods, to hunt, to fish, to garden and to travel.

In the past 10 years, the number of ATVs registered in Maine has increased 136 percent, to 52,830 in 2002. In the same period, retail sales of ATVs in Maine jumped 574 percent, to nearly 10,000 annually. ATVs now are outselling snowmobiles by a wide margin at many Maine dealerships. They have the potential to equal or even surpass the \$300 million annual economic impact of the snowmobile industry, since ATVs can be used year-round.

Yet with just 2,200 miles of trails (compared to 12,000 for snowmobiles), it's become clear that Maine does not have the infrastructure to absorb such a tremendous increase.

As the number of ATVs in Maine has increased dramatically, so have crashes and injuries. Since 1993, 35 people have died and 2,241 have been hurt in ATV crashes in Maine. In 2002, there were a record 319 ATV crashes, a 14 percent increase over 2001. The number of people injured, 327, also was a record. The six fatalities were the most since 1999, when seven people died in ATV crashes, the most ever. In the first eight months of this year, three more people died and 247 were hurt.

As if those statistics weren't alarming enough, half the operators involved in crashes since 1993 were 20 or younger.

Another serious concern is the toll ATVs are taking on Maine's land and the good will of Maine's landowners. Although there are many responsible ATV riders, irresponsible ones are trespassing, digging up land, polluting streams and angering landowners. Many landowners want to keep ATVs out entirely, but they're not just their land against ATVs, they're banning all recreational uses.

That's a huge problem in a state where 94 percent of the land is in private hands and where the economy as well as the quality of life depend upon recreational access to private land. It's also a serious burden for Maine's landowners, who must use their resources to keep irresponsible ATV riders out or to repair the damage they cause.

That's why Gov. John Baldacci announced, at a statewide ATV conference March 18, 2003, that he would form a task force to study the issues surrounding ATVs in Maine. Fifteen persons were chosen for the task force from state agencies and outdoor organizations. Other stakeholders volunteered to serve on subcommittees for law enforcement, trails and education/safety.

In his executive order May 29, the governor asked the task force to:

“It will take all of us, working together, to control the problems yet still preserve the personal and economic benefits that ATVs can bring to our state.”

— Gov. John Baldacci

1. Develop guidelines for a grant program(s) to increase support of the efforts of local clubs, municipalities, and landowners in addressing matters of law enforcement, landowner relations, public awareness, safety education, trail development, damage mitigation, and other strategies to solve problems caused by irresponsible ATV operation;
2. Form a subcommittee and work with representatives of local, county, and state law enforcement agencies to determine what training, equipment, funding, changes in law, and other resources or actions are needed by Maine’s law enforcement agencies to more effectively enforce ATV laws; and
3. Recommend solutions to the problems identified by the Task Force, including, but not limited to, strategies to: (a) improve enforcement of laws governing ATV use, (b) increase interagency cooperation and coordination to deal with ATV issues, and (c) ensure the most effective and efficient delivery of programs designed to increase the awareness among ATV operators about safe and responsible ATV use.

The task force held its first meeting July 14, and then broke up into three subcommittees, which were asked to report back to the full task force. On Sept. 18, the reports of each subcommittee were reviewed and the task force approved a series of recommendations to take to the people of Maine for comment.

The task force then held four public forums in Presque Isle, Bangor, Auburn and Sanford. The Task Force also received comments by mail and email. In all, about 170 people took the time to communicate their views about the goals and recommendations. After studying the public’s comments, the task force met on Nov. 14 to revise its recommendations and subsequently completed its final report for the governor.

The Task Force recognizes that the state government is struggling with a funding crisis. But even during such difficult times, it’s important to protect Maine’s most valuable resources. Access to the Maine outdoors is an asset beyond price. If that asset is to be preserved, Maine’s landowners must be convinced that the state’s ATV problems will be resolved.

ATV operators already are paying much of the money — nearly \$2 million annually in registration fees alone — needed to fund these recommendations. Solutions are within reach if ATV revenues can be redirected to safety, law enforcement and trails programs. Yet, as so many people told the ATV Task Force, these solutions already are overdue.

Goals of the Governor's ATV Task Force

1. To protect landowners and their property from disturbances or damage caused by ATVs.
2. To improve law enforcement response to complaints about ATVs.
3. To develop a high-quality trail system that protects the environment and the rights of landowners, while offering ATV riders a chance to enjoy multi-day trips, sport-riding areas and access to popular destinations.
4. To insure ATV riders are aware of ATV laws, ethics and safety issues.



"In the course of a typical weekend, I might have 100 ATVs crossing my property. I'm not about to stand out there and write out permission slips."

Conan Furber,
Kingsbury

"ATV riders are digging up my flowers, riding outside of marked trails, riding through mud, and leaving their trash."

Richard Hutchins,
Portland

"For us, ATV operators (and dirt bikers) have long since worn out their welcome."

Harrison Roper,
Houlton

"The key should be to treat it like it's MY land. Treating it like it's your land isn't the way to do it. It's up to me to decide what I want to do with my property. I have that right."

Rommy Haines,
Mapleton

Restoring landowners' confidence

One of our state's most precious resources is also one of its most vulnerable.

Maine would not be Maine without the opportunity to enjoy outdoor recreation, from back-country adventures to walks in the woods. The state's economy as well as its quality of life depends upon access to the outdoors. But since 94 percent of Maine's land is in private hands, access depends upon the willingness of landowners to open their land to others.

That willingness grows out of a sense of community, a feeling that sharing with neighbors is part of a long cherished tradition. With so much of the state in private hands, it would be a small world indeed if Mainers could only hike, hunt, ride recreational vehicles, take photos or watch wildlife on their own property.

Yet the sense of community is fragile. It can be gradually worn away by small abuses. It can be sharply damaged whenever high-profile events or issues make landowners feel they no longer can control or protect their property.

Maine's landowners told the ATV Task Force in no uncertain terms that they feel threatened by the tremendous growth in ATVs. Some landowners have seen their land rutted, their streams polluted and their peace of mind destroyed by irresponsible riders. Farmers fear ATVs will bring disease to their fields. Many landowners worry about liability if an ATV rider is hurt on their land. Others wonder if trails, whether authorized or not, could represent a legal threat to their ownership.

Some landowners are very angry. Some feel intimidated. Most recognize that many ATV riders are responsible, but they feel they cannot cope with the ones who refuse to respect their property or their rights. Many are posting their land and not just to ATVs, but to all recreational use. Many more will do the same if they don't feel safe on their own property.

The goal of the ATV Task Force is to restore the confidence of landowners. They need to know that Maine has one of the strongest laws in the nation to protect them from liability. They must be convinced that protecting their rights is a high priority. They need to be sure that when they call for help, help will come. They should be told — and shown — how much their generosity is appreciated.

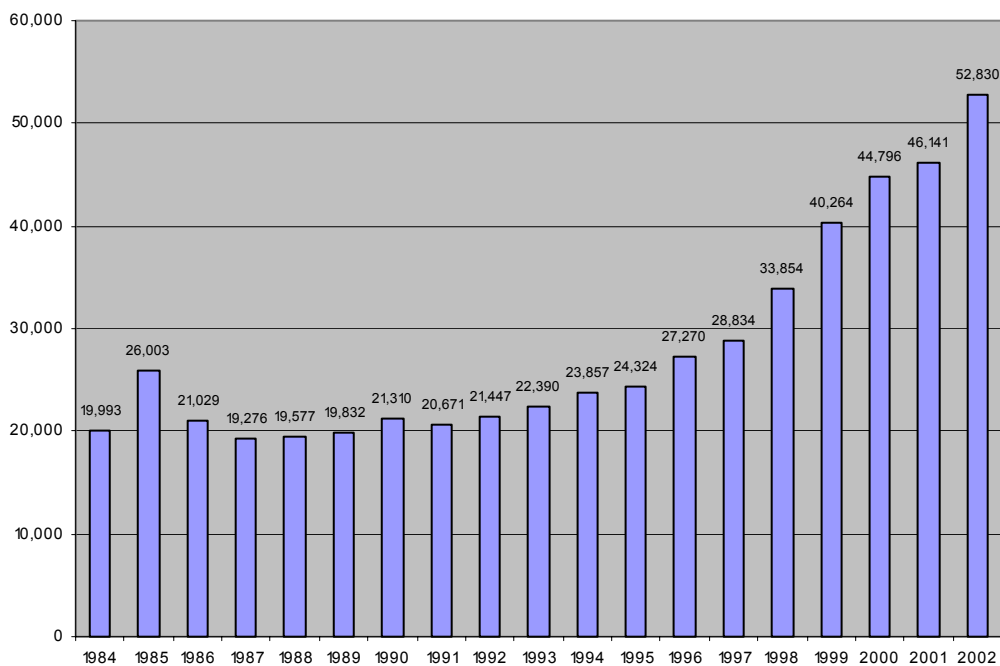
Recommendations: To protect landowners and their property from disturbances and damage caused by ATVs.

1. Recommend this new language be added to Maine law: “The privilege to operate an ATV on the land of another requires the landowner’s permission. Permission is presumed where authorized ATV trails exist or in areas open to ATVs by the landowner’s policy. Written permission of the landowner is required on crop land, pastureland or in an orchard. Anyone riding on land without the landowner’s permission is committing a civil violation subject to a \$100 to \$500 fine.”
2. Raise the liability insurance provided by the state ATV program to at least \$2 million.
3. Pending the results of the state’s review of insurance for recreational vehicles, liability insurance for ATVs is recommended.
4. Establish a damage mitigation fund with clear eligibility guidelines to repair environmental damage or to reimburse landowners for damage to crops, trees or orchards caused by ATV riders, when those riders cannot be identified or prosecuted.
5. Prohibit trucks, cars and commercial vehicles, as defined under Title 29A, from using recreational trails, except with landowner permission or on landowner-approved roadways.
6. Ask the Legislature to:
 - a..Clarify the definition of all-terrain vehicles;
 - b.. Consider how to resolve problems and damage caused by other off-road vehicles,,such as dual sport bikes;
 - c. Decide whether other off-road vehicles should contribute through an off-road sticker to the construction and maintenance of trails.
7. Change Title 14, section 7551 (intentional trespass damage), so landowners can receive triple damages.
8. Authorize a mud season closure for ATV trails similar to the road posting process, so it can be done at the local level. Develop a sign. Insure a substantial fine applies to violations.
9. To Title 12, section 7857, paragraph 22-A, “Operating an ATV in a prohibited area,” add “rivers, brooks, streams, Great Ponds, non-forested wetlands, vernal pools, and source water protection areas of public drinking water supplies, except for needed maintenance and management authorized by the landowner.”
10. Prohibit snorkel kits and similar kits designed to allow ATV use in deep water, except at

sanctioned events and with the landowner's permission.

11. Change the sound decibel level to the 20-inch test at 96 DBA, to reflect national standards.
12. Work with the Maine Attorney General's Office and others to produce a brochure (similar to "Landowner Liability Explained") to explain landowners' rights, protections and opportunities for tax relief under the state's Open Space law. Brochure must include information on prescriptive rights (adverse possession).
13. Ask the Legislature to create a study group to review and, if necessary, modify statutes so that allowing public recreational access doesn't compromise landowners' rights.
14. Provide a handout telling landowners what information is needed to enforce ATV laws and where to call.
15. Ask the Department of Conservation to research, including what's been done in other states, possible incentives for landowners who allow public recreational access to their property, including tax relief, trail fees, clean-up assistance, an insurance pool and other incentives. The report will include recommendations and proposed legislation. The report should be completed by Dec. 1, 2004.

Maine ATV Registrations





"It is unfortunate that for years the argument about who is responsible for enforcement has precluded any enforcement and created a situation where we have enabled bad behavior by having no deterrents."

Kathy Mazzuchelli,
Caribou

"Law enforcement doesn't always take us seriously or even know the ATV laws."

Pat Burkard,
Bolsters Mills

"When you have a problem in a certain area, it seems sometimes it just falls on deaf ears."

Bob Holcomb,
Parkman

"Strong enforcement will be necessary to counter the high frustration level existing within the landowner community."

Douglas Denico,
Plum Creek Timber

Providing resources for law enforcement agencies

No law enforcement agency in Maine can control irresponsible ATV riders. At least not alone.

The answer is to combine the efforts of all the agencies that landowners look to for help: the Maine Warden Service, the Maine Forest Service, the Maine State Police, Maine's sheriff's departments and local police.

The first step is training. The state's law enforcement officers need to know the laws dealing with ATVs and understand the most effective methods in dealing with ATV riders.

Officers need access to equipment. They need laws that can be enforced and penalties that are fair, but tough enough to make irresponsible ATV riders think twice. They also will need time to enforce ATV laws, because Maine's law enforcement agencies are stretched thin at every level.

That's why cooperation is so important. If agencies work together, they can focus on serious problem areas. When they do that, the word will get around that Maine will not tolerate irresponsible ATV riders.

But mobilizing all Maine's law enforcement agencies is only part of the solution. Another important step is a public awareness campaign to tell riders who are uninformed, rather than irresponsible, where they should be riding and how to ride safely. That campaign also must be designed to reach parents, so that they can teach their children.

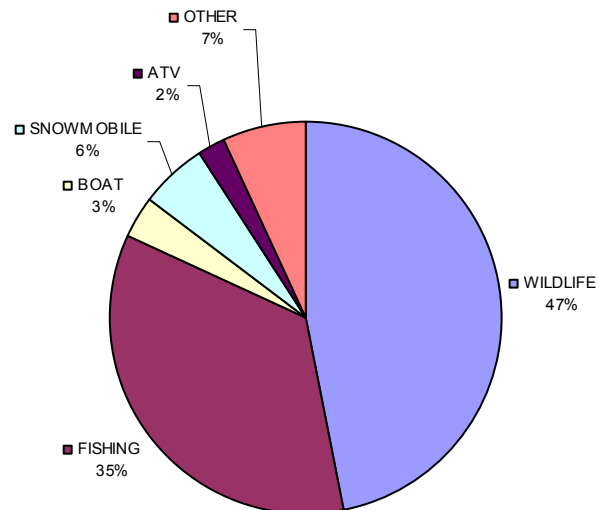
Giving towns a share of the ATV registration revenues — just as they get from snowmobile registrations — also will help. Local officials and residents can decide how to use those dollars most effectively to resolve ATV problems at the community level.

An expanded trail system will give ATV riders more legal places to ride and reduce the burden on law enforcement.

Maine's law enforcement agencies can meet this challenge, but they must have the tools to do the job, including training, equipment, time, laws and leadership.

Recommendations: To improve law enforcement response to landowners' concerns and complaints.

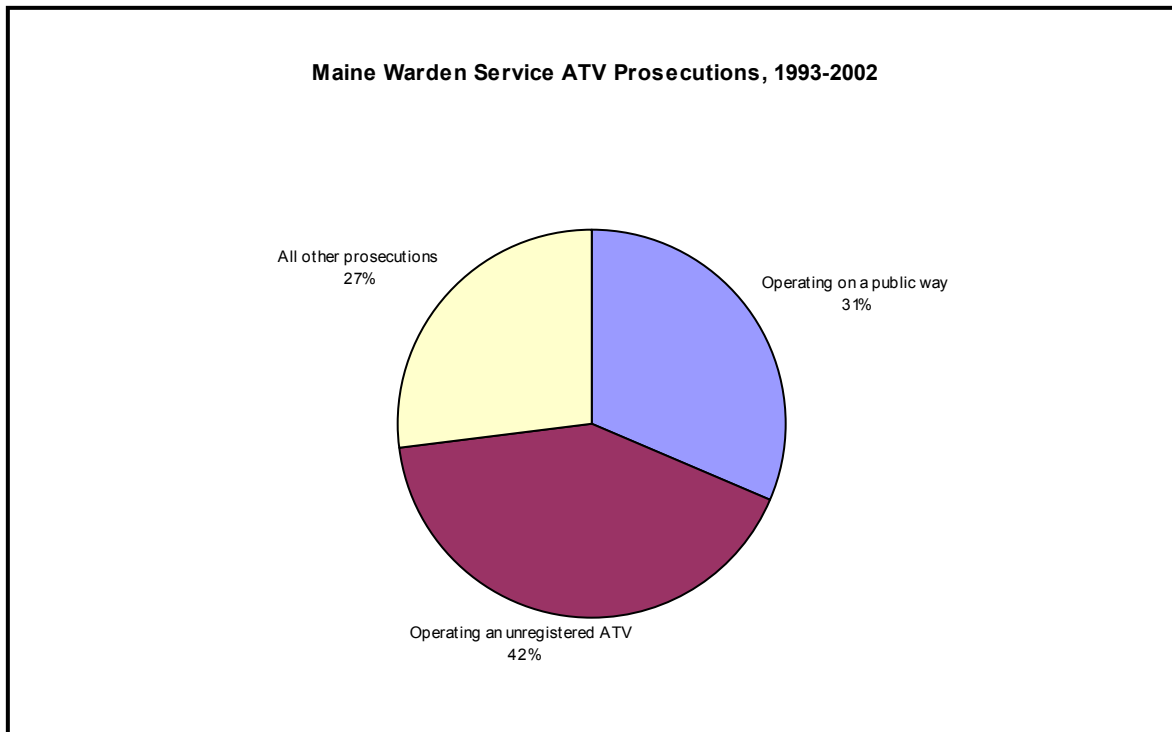
16. Coordinate law enforcement agencies to increase enforcement of ATV laws.
17. Concentrate law enforcement efforts on high-problem areas.
18. Designate the Maine Warden Service as the lead agency in coordinating the efforts of all law enforcement agencies.
19. Organize an ATV Law Enforcement Task force to develop and authorize Mobile Strike Forces, made up of local, county and state law enforcement officers, to respond in areas where ATVs are being operated illegally. When a problem is identified in a certain area, it will be brought to the attention of the local officer of the Maine Warden Service. The Warden Service will contact the member agencies of the Task Force to organize the Strike Force response and a time, date and location will be established. The organization and use of Strike Forces will remain very flexible. This will allow the member agencies of the Task Force to respond to a wide range of ATV complaints, issues, and violations. Appropriate law enforcement action would be taken against any violators. A Mobile Strike Force would typically consist of at least two marked patrol car units at two trailheads (road crossing) with a section of ATV trail between the trailheads. At least two law enforcement units would be on ATVs, on the trail. This would make it very difficult for any ATV passing through the section of trail not to be checked by a law enforcement officer.
20. Ensure all game wardens with field patrol responsibilities have access to four-wheel ATVs.
21. Ensure municipal and county law enforcement agencies have ATVs when needed for duty with Mobile Strike Forces by having two ATVs available at each regional office of the Maine Warden Service.

2002 Maine Warden Service Enforcement Hours

"Other" includes accident investigation, court hours, assisting other officers, environment and dog leash law.

22. Ensure all law enforcement officers — municipal, county and state — have access to training on (Title 12) ATV laws, and patrol procedures and that some are trained in ATV operation. All potential members of the Mobile Strike Forces would attend a certified course for law enforcement officers who operate ATVs and conduct ATV enforcement. (Currently game wardens and forest rangers receive ATV training as part of their respective agency training programs.) In conjunction with the Maine Criminal Justice Academy, an ATV Enforcement Officer Training Program will be established based on existing programs established in the State of New York and the ATV Safety Institute Riders Course. The timeline to prepare a course and establish a group of trainers for the State of Maine is:

- Jan. 1, 2004, establish Enforcement Officer Course for Maine.
- Jan. 30, 2004, present course to the MCJA Board of Trustees for certification.



- April 2004, provide an ATV Enforcement Officers Course to train officers to instruct other officers, with the goal of developing 30 trained instructors, at a total cost of \$7,500 (\$250 each, which includes accommodations and meals at the Maine Criminal Justice Academy.)
- May 2004, begin providing training for enforcement officers across the State, as part of their required in-service training.

23. Encourage increased ATV enforcement by creating a three-tier grant program, available by application to all law enforcement agencies in the state. The three grant types are as follows:

1. Multi-jurisdiction High-Problem Area — To fund law enforcement, including mobile strike forces, in areas of extensive ATV use where there are documented complaints, such as unauthorized trails or damage to agricultural land. The Multi-jurisdiction grants will provide 100% funding for personal service costs.

2. General ATV Enforcement — The General ATV Enforcement grants will provide 75% funding for personal service costs in two categories.

a. **Level 1 Enforcement** — Handling ATV complaints, responding to accidents both on and off highway, and ATV checks during normal course of patrol duties.

b. **Level 2 Enforcement** — ATV enforcement focused on recognized problems in localized area. Area may be of moderate use by ATVs but does not require the enforcement effort of a high-problem area.

3. Equipment and Training — Includes ATVs, trailers, and protective equipment for operators, and training associated with ATV operation and patrol techniques. A 50% match will be required for Equipment and Training grants.

General ATV Enforcement, and Equipment and Training grants will be awarded on an annual basis. Multi-jurisdiction grants will be awarded on a more frequent basis, yet to be determined. A Grant Review Committee with representatives from the following law enforcement agencies will establish grant guidelines and review ATV enforcement grant requests: Maine Warden Service, Maine Forest Service, Maine State Police, Maine Sheriff's Association, Maine Criminal Justice Academy, and representatives of four municipal police departments, one each from Northern, Down East, Central and Southern Maine.

24. Dedicate the Inland Fisheries and Wildlife Department's ATV gas tax revenues and the fines from ATV violations to the ATV law enforcement grant program and the damage mitigation fund. (There would be approximately \$115,000 available from this source in fiscal years 2004 and 2005.) Additional funding could be derived if ATV registration fees are distributed in a similar manner as snowmobile fees (see recommendation No. 28). The Department of Inland Fisheries and Wildlife will administer the ATV enforcement grant program with oversight from the Grant Review Committee. Administration of the program would require the department to hire additional staff or contract for services to insure financial accountability and reporting of activities.

25. Work with the Chief Judge of the Maine District Court, the Legislature's Judiciary

Committee and Maine prosecutors to establish a more effective system of penalties and fines, including impoundment, for ATV offenses.

26. Institute the following enforcement policies and law changes:

- a. Strongly recommend a “no chase” enforcement policy for officers in vehicles and operating ATVs, due to the risk of injury for both the officer and the person being pursued.
- b. In support of this policy, the penalty for failure to stop for an officer would be increased to a Class D crime with a mandatory \$1,000 fine. Attempting to elude an officer (example passing a road or trail block) would escalate the penalty to a Class C crime.
- c. Make ATV violations count as points against a driver’s license.
- d. Make an ATV OUI part of a driver’s motor vehicle record.
- e. Require visible identification on both the front and rear of all ATVs.
- f. Make the minimum-age requirement consistent for all recreational vehicles.
- g. Establish self-reporting accident forms for minor personal injury accidents.
- h. Encourage LURC, the Maine Warden Service and Maine Forest Service to work together to insure remote ponds are identified, posted and protected by law enforcement.
- i. Add destruction of signage and posting to Title 12, section 22-B, governing “Abuse of Another Person’s Property.”
- j. Prohibit children younger than 10 years of age from operating an ATV, unless it is on land owned by their parents, grandparents or guardian, or at an approved ATV safety-training site.



"Once you get an established trail made, people will stay on it. That's a given. We've proven it."

Ron McPherson,
Presque Isle

"The ATV clubs need help all over the state. We've got to give them a chance. They're the ones who create the trails..."

David Snyder,
safety instructor

"ATVers would like the ability to get on a trail and be able to go places, similar to that of snowmobilers."

Jason Johnson,
Unity

"There must be some type of incentive to form ATV clubs ... By forming a club, the group would improve landowner relations, become more educated, become more sensitive to the effects of ATV use and share the trail maintenance burden."

Stephen Perham,
Southern Maine
Sno-Goers Club

Expanding Maine's trail system

Maine already has proof that ATVs can not only be controlled, but also become a valued part of a community.

ATVs are following the same developmental path as snowmobiles. When snowmobiles began to appear in the 1970s, the machines were noisy, smelly and roared through unprepared neighborhoods in large groups. Snowmobilers were viewed with much the same appreciation as motorcycle gangs. Then snowmobile clubs were started, trails were expanded, state laws were overhauled and the infrastructure was put in place to support an industry that now pours about \$300 million into Maine's economy each year.

Many ATV riders are working hard to put a similar system into place. There already are 92 ATV clubs across the state, plus a statewide umbrella organization called ATV Maine. ATV club members are building trails, promoting safe riding and working with landowners. State agencies, including the Department of Conservation and the Inland Fisheries and Wildlife Department, are working with them.

Down East, for example, International Paper, DOC and seven ATV clubs worked together to create nearly 750 miles of authorized trails where ATVs can be ridden safely and in an environmentally sound manner. In Presque Isle, the Star City ATV Club has worked with DOC and the Department of Environmental Protection to build a "mud run," where ATV riders can have fun, but do no harm. The River Valley Riders in Rumford have built more than 200 miles of trail and recently received approval from selectmen to explore bringing an ATV trail into downtown Mexico.

But the infrastructure to absorb the tremendous growth in ATVs is far from complete. There are only about 2,200 miles of authorized ATV trails, compared to 12,000 miles of snowmobile trails. That's no excuse for bad behavior, but when legal opportunities to ride are so scarce, it clearly increases the temptation to ride illegally.

Expanding the ATV trail system is an even greater challenge than building the snowmobile system. Since they're not gliding over snow, ATVs need hardened trails, which are more expensive to develop.

Developing an infrastructure will take an investment — in trails and ATV clubs — but that investment could pay off, just as Maine's investment in snowmobiles has. Since ATVs can be used year-round, they might someday be even more valuable to the Maine economy, especially in rural areas.

Maine needs a 7,000-mile ATV trail system

In 2001, the Margaret Chase Smith Center for Public Policy conducted a survey of registered ATV users at the request of the Maine Legislature, which was reconsidering the distribution of gas tax revenues.

According to the survey, ATV riders would travel up to 20 miles on average to ride and it took at least a 25-mile trail to attract them.

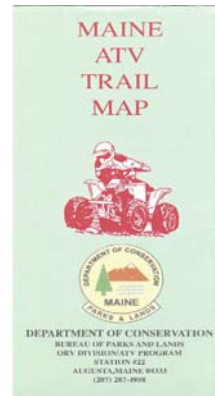
The Off-Road Vehicle Division at the Department of Conservation used those figures to estimate that Maine needs an ATV trail system of about 7,000 miles to “meet the need and solve the problems faced by the users and landowners.”

That’s far more than the 2,200 miles now available, but far less than the 12,000 miles of snowmobile trails.

Currently, the average cost of building a new trail is \$670 a mile. The average cost of maintaining trails is \$262.24 a mile.

The figures on the next page are DOC’s estimate of the cost of developing a 7,000-mile trail system over five years at today’s construction and maintenance costs. It assumes 2,500 miles of existing trails and an additional 1,000 miles of new trails each year. It also assumes 7,000 miles of trail to maintain.

Costs could be higher if it’s necessary to build boardwalks or install gravel across long sections of wet trail. On several trails constructed for joint use by ATVs and snowmobiles, DOC has spent approximately \$10,000 a mile on sections through wet areas that needed a hardened surface for summer use. Some bridges also have cost as much as \$50,000 to construct.



The average cost of building a new trail is \$670 a mile. The average cost of maintaining trails is \$262.24 a mile.

Current authorized ATV trails

- Approximately 2,000 miles of trails maintained by ATV clubs.
- About 200 miles of shared-use roads on state property managed by the Bureau of Public Lands.
- Approximately 175 miles of rail trail the BPL manages for multi-use, including ATVs.
- About 75 miles of additional ATV trails on BPL property.
- Corporate landowners, such as Plum Creek and Meadowestvaco, as well as smaller ones like Cousineau and Haines have open use policies. These landowners combined have hundreds if not thousands of miles of roads open to ATVs.
- Many small landowners have private trails or roads open to use, but they aren’t working with the DOC program at this time.

<i>Current trail needs</i>	Annual expenditures
Trail development and maintenance	\$1,330,600
Sport-riding areas	\$250,000
Staff, including 5 (proposed) regional coordinators	\$250,000
Trail-related information/education	\$50,000
Subtotal	\$1,880,600
Landowner incentives	\$500,000
Proposed increase in insurance coverage	\$100,000
Total	\$2,480,600
<i>Five years from now</i>	Annual expenditures
Trail development and maintenance	\$1,849,680
Sport-riding areas	\$250,000
Staff, including 5 (proposed) regional coordinators	\$300,000
Trail-related information/education	\$50,000
Subtotal	\$2,449,680
Landowner incentives	\$500,000
Proposed increase in insurance coverage	\$100,000
Total	\$3,049,680

Recommendations: To develop a high-quality trail system that protects the environment and the rights of landowners, while offering ATV riders a chance to enjoy multi-day trips, sport-riding areas and access to popular destinations.

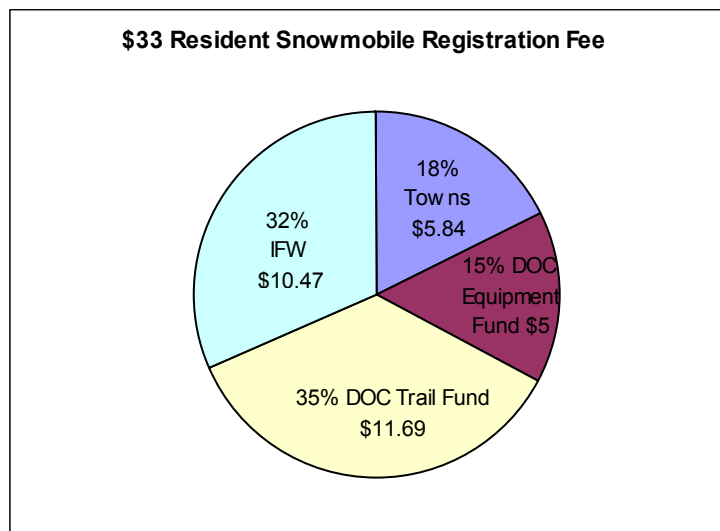
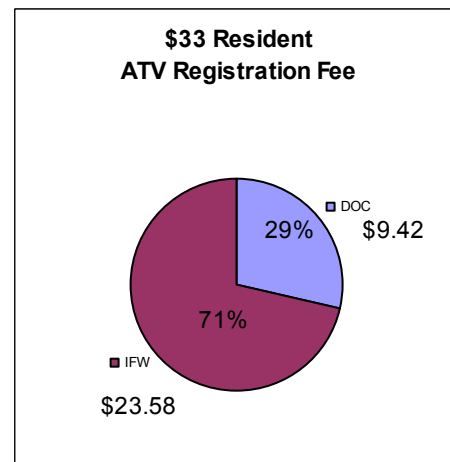
27. Give high priority to connecting trails, creating loop trails and constructing sport-riding areas, especially in high need/problem areas.

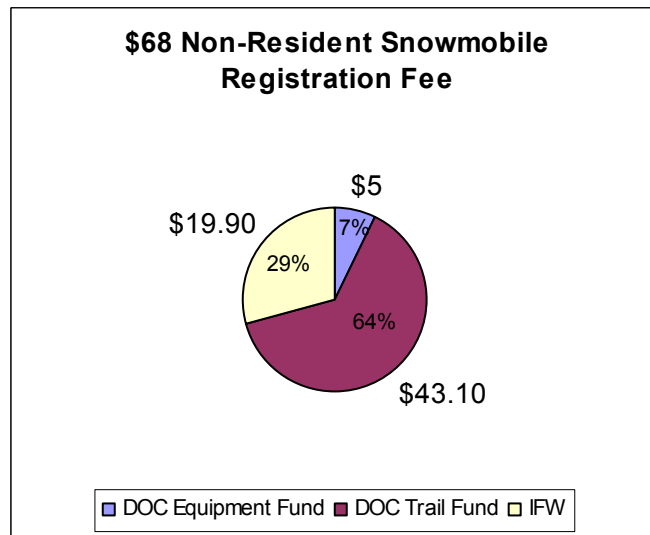
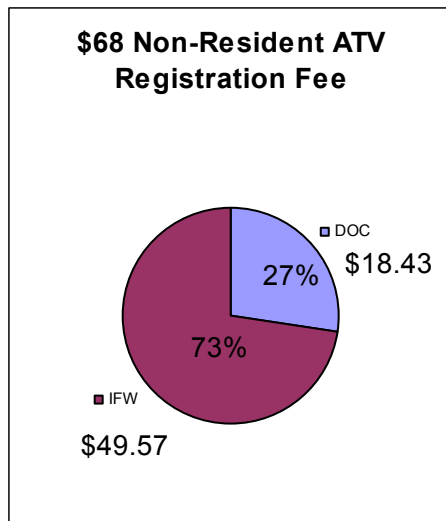
28. Distribute state ATV revenues in the same categories as snowmobile revenues, with percentages dedicated to IFW for law enforcement and safety; to DOC for trail grants and equipment, and to towns in lieu of personal property tax.

29. Encourage membership in ATV clubs by offering a discount registration for ATV club members

(similar to the N.H. discount for snowmobile club members). Recommended registration fees: Maine residents: \$33 (same as currently) for club members; \$50 for non-club members. Non-residents, \$68 for club members (same as currently); \$80 for non-club members.

30. Authorize five regional part-





time employees (similar to IFW's recreational safety coordinators) to work up to 1,000 hours annually assisting DOC's Off-Road Vehicle Division to develop clubs and trails, and work on landowner concerns or problems.

31. To Title 12, Subsection 7854 , 4B, "The ATV Recreational Management Fund is established and administered by the Department of Conservation ... to assist in the design and development of ATV trails" add, "for ATV trail or sport riding facility acquisition, including, but not limited to, the purchase or lease of real estate and the acquisition of easements."
32. Solicit help from conservation organizations, state agencies and the 16 Soil and Water Conservation districts to build and maintain ATV trails.
33. Develop multi-use trails (snowmobile, ATV, biking, horseback riding, hiking etc.) by promoting the benefits of joint trails and providing better funding for joint trails.
34. Work with the Maine congressional delegation to change rules restricting use of federal funds to build multi-use trails. Currently trails built with federal transportation funds cannot include ATV use.
35. Commission an economic impact study from the Margaret Chase Smith Center for Public Policy to be completed as soon as possible. The study should review the current economic impact of ATVs in Maine, the potential economic impact, and the cost of ATV problems for the state's landowners and others.



"There should be mandatory safety training for everybody, not just kids 10 and older."

Melissa Harvey,
South Portland

"Parents need to take responsibility for where their kids are and what they're doing. My kid is not going to be out there alone."

Larry Ouellette,
Lyman

"I implore the Task Force ... to create controls and regulations to reduce preventable life-threatening trauma from ATV crashes and to help the citizens and hospitals of Maine realize health care savings that will benefit all Mainers."

Marc Perlman, M.D.
Auburn

"I learned to ride at one of the ATV education classes, others can also ... Folks need to know how to use them safely and non-destructively."

Brian Krampert,
Central Maine
ATV Club

Educating ATV riders

Nearly 15,000 people have now taken the state's ATV safety training course. So it's interesting that since 1997, when the question was first included on ATV accident reports, only 169 operators involved in crashes reported they'd had safety training, while 1,107 had no safety training.

As the number of ATVs in Maine has increased dramatically, so have crashes and injuries.

Since 1993, 35 people have died and 2,241 have been hurt in ATV crashes in Maine. In 2002, there were a record 319 ATV crashes, a 14 percent increase over 2001. The number of people injured, 327, also was a record. The six fatalities were the most since 1999, when seven people died in ATV crashes, the most ever. In the first eight months of this year, three died and 247 were hurt.

As if those statistics weren't alarming enough, half the operators involved in crashes since 1993 were 20 or younger.

That's why it's so important to teach more ATV riders — especially young riders — how to ride safely. While they're learning about safety, they also can be taught why it's important to ride responsibly.

Currently, only children ages 10 through 15 are required to take an ATV safety class. That does not go far enough. More people, especially Maine's youngest riders, will do the right thing if they know what to do and where to ride.

Maine already has an excellent ATV safety program, but with more resources — including ATVs for hands-on training — it could be better.

ATV clubs already are promoting safety, but they can do more with encouragement and resources.

A better trail system also would improve safety. From 1998 through 2002, only 27 accidents were reported on marked trails, while 1,176 occurred off designated trails.

Finally, it's not enough to hope that ATV riders go looking for safety information. Safety information should be brought to them, through a broad public awareness campaign designed to reach ATV riders and the parents of young riders.

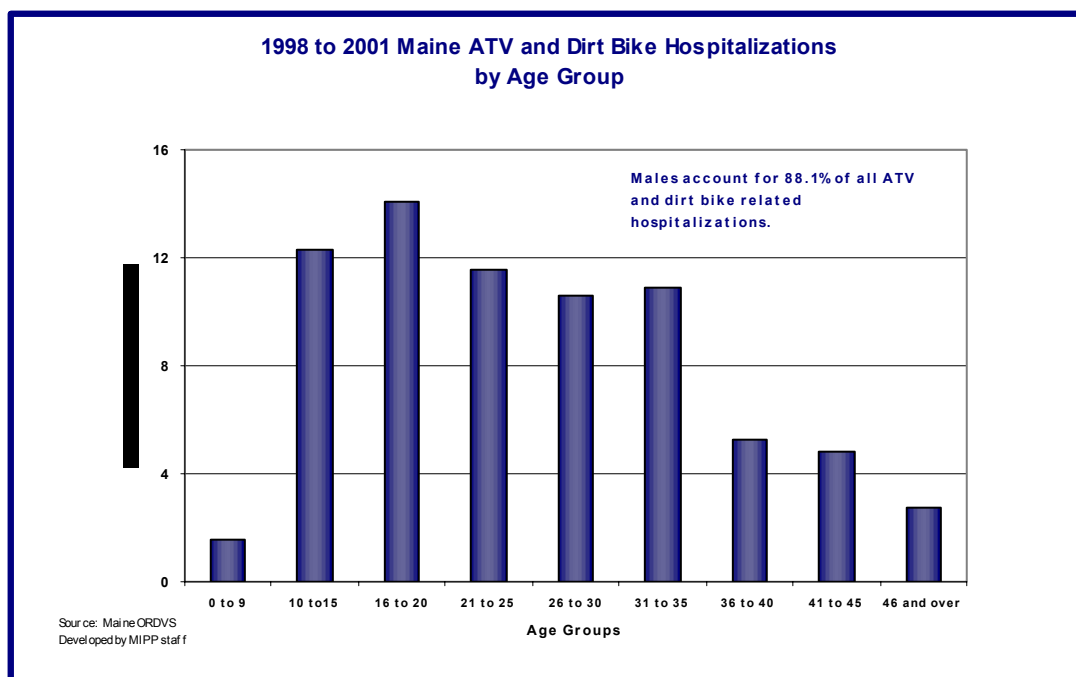
Recommendations: To insure ATV riders are aware of ATV laws, ethics and safety issues.

36. Dedicate a percentage of the total ATV registration fees to safety efforts, including training courses, education, public awareness and a grant program to encourage innovative community safety programs.

37. Develop a program to phase-in mandatory ATV safety training. Begin by raising the ages for mandatory safety training from 10 through 15, to 10 through 18 for 2005. After reviewing the results and costs of the program, consider increasing the age for mandatory training in three-year increments (to 21, then to 24, etc.) Proof of safety training in other states would be accepted from non-resident ATV operators.

38. Offer adults (but not minors) the option of completing part of the six-hour safety course by studying at home and/or online and showing their proficiency by taking a test during the classroom component.

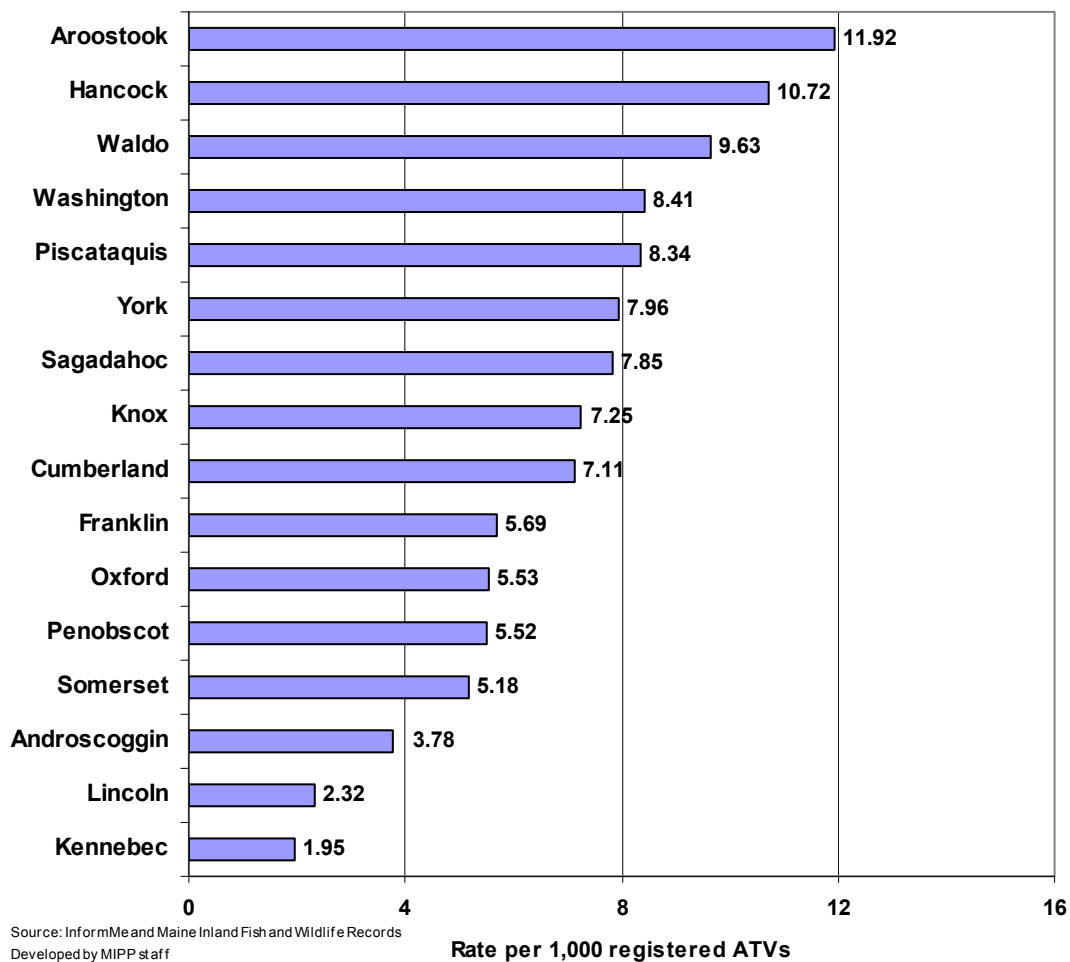
39. Develop a two- to three-hour annual safety refresher course for adult riders and make it available for use by ATV clubs or other organizations, including adult education programs.



40. Add hands-on training to ATV safety courses by providing ATVs (of various sizes) for participants to use. Explore the possibility of sharing these ATVs with the Maine Warden Service.
41. Require a parent or guardian to attend ATV training with children ages 15 and younger.
42. Require brake lights on all ATVs.
43. Strongly recommend helmets for all riders. (They're now required for those younger than 18.)
44. Require mandatory safety training (or repeat training) for all ATV riders who are convicted of the most serious offenses, such as OUI, driving to endanger and criminal trespass.
45. Give the IFW Commissioner the authority to revoke the ATV safety certificate of ATV riders who violate other laws, forcing them to take a remedial ATV ethics course.
46. Work with the ATV Safety Institute and the Maine Warden Service to train ATV club members to conduct safety checkpoints.
47. Sharply increase public awareness of ATV laws and safety issues by:
 - a. Conducting a statewide, multi-media campaign including TV, radio and print advertisements to teach ATV riders about laws, safety and landowners' rights.
 - b. Developing a brochure clearly stating the ATV accident statistics, strongly encouraging the use of helmets and educating riders about the most important laws regarding ATV use and safety.
 - c. Making available informational brochures and maps when ATVs are registered.
 - d. Making available informational brochures and maps when ATVs are purchased.
 - e. Working with the ATV industry to encourage responsible ATV behavior.
 - f. Handing out brochures at the Maine Turnpike's southern entrance to all vehicles bringing ATVs into Maine.
 - g. Dispersing information through ATV clubs.

- h. Establishing an effective educational program to reach youngsters in schools.
- i. Making riders and parents aware that choosing the right size ATV is essential and that special safety courses, taught on ATVs of the recommended size (50 cc) are available for children ages 6 through 11.
- j. Telling ATV buyers about incentives (such as money from manufacturers) to take safety training.
- k. Disseminating ATV information at sporting shows and other events, especially those likely to reach teenagers and young adults, such as the state basketball tournament.

2001 & 2002 Maine ATV Crash Rates by County



Estimated cost of expanding ATV safety

The Department of Inland Fisheries and Wildlife currently spends about \$50,000 annually on its ATV safety education program. The program includes outreach to schools, clubs and organizations, as well as ATV safety and ethics classes. The staff consists of IFW's recreational safety and vehicle coordinator, a secretary and 11 part-time regional Recreational Safety Coordinators, who each work an average of 100 hours annually.

Approximately 150 volunteers are certified to teach the six-hour ATV operator course, although not all are active. In the past three years, from 90-100 courses have been offered with an average of 1,300 students per year. This course is classroom-based.

The ATV Task Force concluded that a much larger percentage of ATV registration fees — around 10 percent, or nearly \$200,000 annually — should be invested in two ways: a public awareness campaign and expanded safety and ethics training.

Since more than half the ATV crashes in the past decade have involved operators 20 or younger, it's recommended that safety training, which is now required for those ages 10 through 15, should be mandatory for those in their late teens and early 20s.

To avoid overburdening the present infrastructure and budget, the Task Force recommends that the age for mandatory education be increased in phases. In the first phase, the age for mandatory safety training should be raised to 18. Phase 2, raising the age to 21, would be implemented only after a review of the costs and results of Phase 1.

Raising the age to 18 would add an estimated 600 students annually, a 46 percent increase. IFW's estimated cost per student is \$25 — \$12.50 for class materials and \$12.50 for regional staff time. At \$25 per student, about \$15,000 annually would be needed for Phase 1, and roughly the same for each subsequent increase in the age requirement.

To add hands-on training, ATVs and trailers for transport would have to be purchased or leased. Ideally each regional safety coordinator would have access to two machines with a trailer. It might be possible to share this equipment with law enforcement agencies.

An expanded public awareness/operator education program would require development of up-to-date, Maine-based brochures, videos and ads for radio, TV and print. The initial goal would be to tell riders (and the parents of young riders) about Maine's ATV laws and about the penalties for violating them. Another facet of the campaign would be to let land-owners and others know where and how to report irresponsible ATV riders and what help is available.

It's hoped that the costs of such a campaign could be reduced, as it was in a similar campaign in New Brunswick, by producing ads that could be sponsored by local businesses or organizations ("This safety message is brought to you by ..."). Assistance could also be sought from the ATV industry.



“Without money, these problems cannot be solved – and ATV owners are already paying much of the needed money – but it is not being used to resolve ATV problems.”

George Smith,
Sportsman's Alliance
of Maine

“Where did the ATV additional fees go?... I just think it would be more fair if we got a better share of the money to enforce all these recommendations.”

Don Libby,
Sanford

“I don't care if we pay \$50 – and I own three ATVs – but the money should go to trails and enforcement.”

Bob Lawrence,
Sanford

“Where is all the money from the \$35 registration fees?”

Darrell Wood,
Carmel

Investing in ATV solutions

In the public comments on the ATV Task Force's recommendations, a very strong theme emerged. ATV users, not Maine taxpayers, should pay for trails, for law enforcement, for education and for damage mitigation.

What many people didn't realize, however, is that some ATV riders have been trying to do just that for several years.

ATV Maine, which represents 61 clubs including nearly 7,000 riders, proposed legislation two years ago that would have more than doubled registration fees and devoted the increased revenues to trail-building and law enforcement. That didn't pass — the registration fee was raised only from \$12 to \$17 — but ATV Maine tried again last year.

This time registration fees were increased, but not as ATV riders had hoped. Beginning July 1, ATV registration fees went up to \$33 for residents and \$68 for non-residents, but the new money has been of little help in solving ATV problems.

Because of the state budget crisis, the Department of Inland Fisheries and Wildlife received no money from the state's general tax fund to pay for the services it provides to all state citizens. Instead, IFW was forced to rely on the revenues it receives from hunting and fishing licenses, and registration fees for recreational vehicles.

So although IFW will receive an estimated \$1.4 million from ATV registration fees in fiscal 2004 and again in '05, only about \$400,000 annually is earmarked for ATV programs, including ATV law enforcement. The other \$1 million will be spent to fund other IFW programs.

Part of the increased revenues will help expand the Department of Conservation's trail-building program, but many more trails will be needed if the ATV trail system is ever to be comparable to the snow-mobile trail system.

The ATV Task Force would like to see all the ATV revenues used to resolve ATV problems. Dan Mitchell, ATV Maine president, has even worked out a revenue distribution plan (See Pages 30 and 31).

Another source of funding could be an increased share of the gas taxes that ATV operators already are paying. ATV operators only benefit

from about 37 percent of what they pay in state gas taxes, compared to 74 percent for snowmobilers and 120 percent for boaters.

The Margaret Chase Smith Center for Public Policy conducted a survey of registered ATV users (as well as snowmobilers and boaters) in 2001 at the request of the Maine Legislature, which was reconsidering the distribution of recreational gas tax revenues.

The data showed that the average registered ATV consumed 43.6 gallons (rounded to the nearest tenth) of gasoline during the one-year period ending in April 2001. Approximately 96% of all gasoline used in these ATVs was purchased in Maine.

At the time of the study, there were 39,643 registered ATV users. So it was calculated that the total quantity of fuel consumed in Maine (adjusted for out-of-state purchases) by Maine-registered ATVs was 1,664,497 gallons. The excise tax on gasoline imposed by the State of Maine was then \$0.22 per gallon.

Therefore, the study concluded that an operator of a Maine-registered ATV paid on average \$9.24 per year per ATV, and operators of all Maine-registered ATVs together paid \$366,189 per year in Maine gasoline fuel excise taxes.

The current gas tax is 24.6 cents per gallon. Multiply that by 43.6 gallons and the average amount paid per ATV is \$10.73. IFW has estimated ATV registrations will hit 54,000 in 2003.

So ATVers will pay about \$580,000 per year in gas taxes in 2003, yet the amount that's split between the Department of Conservation and the Department of Inland Fisheries and Wildlife for ATV programs is capped at about \$230,000. If Maine law were changed so that the two departments split 100 percent of the gas tax that ATV operators pay, an additional \$350,000 a year would be available for ATV programs.

The Task Force recognizes that the state funding crisis is likely to continue. But even during such difficult times, it's important to protect Maine's most valuable resources. Access to the Maine outdoors is an asset beyond price. To protect that asset Maine's landowners must be convinced that the ATV problems they find so disturbing will be solved.

ATV operators already are paying much of the money needed to fund these recommendations. The solutions are within reach if ATV revenues can be redirected to ATV programs and—as so many people told the ATV Task Force—they are long overdue.

Projected ATV Registration Revenues*

	Residents	Non-residents
Projected registrants	50,000	4,500
	Breakdown per registration	
IFW	\$23.58	\$49.58
DOC	\$9.42	\$18.42
Total registration fee	\$33	\$68.00
	Projected revenues (FY '04)**	
IFW	\$1,179,000	\$223,110
DOC	\$471,000	\$82,890
Total	\$1,650,000	\$306,000
IFW Total	\$1,402,110	
DOC	\$553,890	
Total ATV Registration Revenues	\$1,956,000	
<i>*Projections by Inland Fisheries and Wildlife Department</i> <i>**Same for FY '05</i>		

ATV Maine president's recommendations for distributing state ATV revenues

ATV Maine President Dan Mitchell's plan to fund the recommendations of the Task Force assumes that registration fees of \$50 for residents and \$80 fees for non-residents are implemented with 50,000 residents and 4,500 non-residents registrations.

It also assumes that half of those who register will be club members and receive the discount — paying the current fees of \$33 for residents and \$68 for non-residents — while the other half pay the full \$50 for residents and \$80 for non-residents.

That would mean ATV registration revenues would bring in \$2,408,000 annually. Add in the \$240,000 in gas tax revenues and the total ATV revenues would be \$2,648,000.

Dan's plan distributes this money to establish the new programs the Task Force is recommending, such as money to towns, a damage mitigation fund for landowners, an equipment grant to ATV clubs, and a law enforcement grant program.

When compared to 2002 funding levels, it would increase funding to all existing programs, including doubling the money going to clubs and trails compared to what is anticipated this year (\$1,127,500 compared to \$553,890).

It also would more than triple safety/education funding and establish a search and rescue fund. Since the search and rescue fund would go to the Maine Warden Service, it will almost double the money going to the warden service from ATV registrations.

With this distribution, IFW would get \$737,250, which is \$664,860 less than the \$1,402,110 that they anticipated receiving in FY 2004. So the bottom line is less than \$700,000 a year from other sources, such as the state's general fund, would balance their budget with this plan. This is approximately half the amount that was used from ATV Funds to balance IFW's budget.

Mitchell's ATV Revenue Distribution Plan

	2002	Mitchell's plan	% Increase
IFW Administration	\$38,832	\$39,500	1.7%
Safety/Education	\$49,223	\$206,500	319%
Registration	\$135,318	\$148,500	9.7%
Warden Service	\$203,780	\$342,750*	68%
Law enforcement grants	\$0	\$401,750**	
Damage mitigation	\$0	\$131,500	
Towns	\$0	\$250,000	
Club equipment grants	\$0	\$197,500	
Sport-riding areas	\$0	\$152,500	
Trail fund	\$282,291	\$777,500***	175%
Total Expenditures	\$709,444	\$2,648,000	273%
<i>*Includes \$90,750 for</i>			
<i>**Includes \$100,000 in ATV gas tax revenues</i>			
<i>***Includes \$140,000 in gas tax revenues</i>			

Appendix A:

How Mainers use and ride ATVs

The Margaret Chase Smith Center for Public Policy conducted a survey of registered ATV users in 2001 at the request of the Maine Legislature, which was reconsidering the distribution of gas tax revenues. Telephone interviews were completed with 671 randomly selected Maine ATV owners. The study had a cooperation rate of 78% among persons who were successfully contacted. Here are some highlights from the survey about ATV ownership, ridership and use in Maine.

Characteristics of ATV-owning households

- The average age of ATV riders in ATV-owning households was 36 years, ranging from infants to age 90.
- 87% of the survey respondents (the person who registered the ATV or was most knowledgeable about it) were male.
- The ATV or ATVs were used by an average of 2.2 persons per household, and also by persons outside the household in 19% of cases.
- About one in ten (11.7%) belonged to an ATV club.
- They had ridden ATVs for an average of 10 years, ranging from new riders with less than one year of experience to veterans of forty-five years.
- 50% of the ATV-owning households owned one or more gasoline-powered boats, and 53% owned one or more snowmobiles.

How ATVs are used

- Forty percent of the households in the study had more than one ATV.

- Only 13% of the vehicles were ever used for commercial purposes in a job or business. Two-thirds of owners say they often ride the vehicles for fun, and another 7% used them for that purpose exclusively, while 7% of the vehicles were never used for recreation.
- Almost three-quarters (73%) were used at least sometimes for hunting, fishing, or trapping (not as part of a job), and 39% were used often or only for that purpose.
- Relatively few were used in farming or land management: 63% were never used for that purpose, and only 11% were often (or only) used for that work.
- Home and yard maintenance use is somewhat more frequent: slightly more than one-quarter (27%) were used often (or only) for that purpose, almost half (47%) were used “sometimes,” and slightly more than one-quarter (26%) were used often or only for yard and home work.

Riding patterns

- ATV riders travel an average of 21 miles at an outing, with trips ranging from less than a mile to 330 miles. Half the trips are fifteen miles long or less. Trips average 3.0 hours at a time, with a range from less than an hour to 20 hours riding time from start to finish.
- More than one quarter (29%) of ATV riders take weekend or longer trips primarily for the purpose of riding their ATVs.
- The ATVs were ridden an average of 67 days in the past year (from 2000 to 2001). Use varied from none to a full 365 days.
- Although ATVs are ridden in all seasons of the year, summer and fall are the most popular seasons. About two-thirds of the ATV riders ride “a lot” in the summer, and almost as many (58%) ride a lot in the fall. In the spring, ATV riding declines somewhat: only one in five (21%) rides a lot. Another 37% ride “some” in the spring. In the winter, half still ride at least a little and 10% ride a lot.

Riding habits: safety

- More than half (58%) of riders more often ride in a group than alone. Less than half (42%) never ride with a passenger, 47% sometimes do, and 11% usually or always have another person with them on their ATV.
- Less than half (45%) never ride at night. Only a few make a habit of it, however: less than two percent usually or always ride at night.
- ATV riders either make a habit of always wearing a helmet (31%) or of never doing so (43%). Relatively few wear a helmet part of the time.

Riding preferences: trail riding and preferred facilities

When asked to indicate their one ideal kind of trail or riding facility, the respondents:

- Clearly prefer woods and trails (63%), with old and gravel roads a distant second (28%).
- Less than five percent prefer mud and water; less than two percent, gravel pits and play areas; and less than one percent, motocross, track and racing. Less than two percent volunteered that they do not like any kind of trail or facility.
- Less than half (41%) of ATV riders use trails made specifically for ATVs. However, six in 10 (61%) use “designated ATV trails,” which includes old roads, fire roads, and other corridors that are permitted for ATV use but which are not necessarily designed specifically for ATVs.
- Of those who do not currently use trails specifically made for ATVs, over three-quarters (77%) would like to do so.
- Those who ride on trails made specifically for ATVs say that the closest such trail to

their home is 20 miles or less (74%); 21 to 50 miles (14%); or more than 50 miles (11%).

- Those who ride the trails made specifically for ATVs rate the closest trail they ride (which may not be their favorite or the one they frequent the most) as excellent (23%), good (42%), fair (29%), or poor (6%).
- Among ATV riders who either already use trails made specifically for ATVs or who would like to use such trails, 59% would travel at least fifty miles to use a good trail, while the remainder say that fifty miles is too far to travel.
- Opinions about the length of an adequate trail vary widely, from a mile or two to two thousand miles. The average (mean) length suggested is 51 miles (the mean is affected by the few respondents who want trails hundreds or thousands of miles long), and half the riders say that 25 miles or fewer (the median) would be adequate. The most frequently mentioned length is 20 miles (the mode).

Respondents were asked to describe one characteristic that a good ATV trail or facility should have. Many had difficulty selecting only one...The most frequently mentioned characteristics are:

- Signs, markers, and directions (19%).
- Rest and picnic areas (11%).
- Well-maintained trails (e.g., branches trimmed), (9%).
- Smooth trails (8%).
- Other desired trail characteristics include restrooms, gasoline pumps, similarity to snowmobile trails, scenery, easy access and parking, wide trails (often mentioned in a safety context), snack bars, speed limits, varied terrain (including rough terrain), and bridges and bridge maintenance.

Governor's ATV Task Force

Action Plan, January through December 2004

Category	Leader	Legislation/ program/ publication	Cost/ revenue	Target date
Legislation	Gov. Baldacci	Distribute state ATV revenues in the same categories as snowmobile revenues, with percentages dedicated to IFW for law enforcement and safety; to DOC for trail grants and equipment, and to towns in lieu of personal property tax.	No new costs, but requires fiscal notes from IFW and DOC.	2004 session
Legislation	Gov. Baldacci	Encourage membership in ATV clubs by offering a discount registration for ATV club members (similar to the N.H. discount for snowmobile club members). Recommended registration fees: Maine residents: \$33 (same as currently) for club members; \$50 for non-club members. Non-residents, \$68 for club members (same as currently); \$80 for non-club members.	Additional revenues estimated at \$452,000.	2004 session
Legislation	Gov. Baldacci	Establish a damage mitigation fund with clear eligibility guidelines to repair environmental damage or to reimburse landowners for damage to crops, trees or orchards caused by ATV riders, when those riders cannot be identified or prosecuted.	Could be funded by ATV fines, gas tax or registration fees.	2004 session
Legislation	Gov. Baldacci	Authorize five regional part-time employees (similar to IFW's recreational safety coordinators) to work up to a total of 1,000 hours annually, assisting DOC to develop clubs and trails, and work on landowner concerns.	Cost \$20,000 per employee; Total: \$100,000 .	2004 session
Legislation	Gov. Baldacci	Dedicate a percentage of the total ATV registration fees to IFW safety efforts, including training courses, education, public awareness and a grant program to encourage innovative community programs. This money would be available to fund the recommendations for safety and public awareness.	10 percent of the ATV registration fees (FY '04) would total \$195,600.	2004 session
Legislation	Gov. Baldacci	Raise the age for mandatory ATV safety training from 10 through 15, to 10 through 18.	Cost \$15,000 annually.	2004 session
Legislation	Gov. Baldacci	Delete the second paragraph of Title 12, 7854, 4 (A). Add a subsection 4 (C) that contains the language previously set out in the second paragraph of subsection 4 (A), except that the language should be modified to allow grants-in-aid to be awarded to the Warden Service, as well as other law enforcement agencies. Add details of law enforcement grant program as outlined in Appendix C.	Could be funded by ATV fines, gas tax or registration fees.	2004 session

Governor's ATV Task Force

Action Plan, January through December 2004

Category	Leader	Legislation/ program/ publication	Cost/ revenue	Target date
Legislation	Gov. Baldacci	Recommend this new language be added to Maine law: <u>"The privilege to operate an ATV on the land of another requires the landowner's permission. Permission is presumed where authorized ATV trails exist or in areas open to ATVs by the landowner's policy. Written permission of the landowner is required on cropland, pastureland or in an orchard. Anyone riding on land without the landowner's permission is committing a civil violation subject to a \$100 to \$500 fine."</u>	0	2004 session
Legislation	Gov. Baldacci	Dedicate all fines from violations of MRSA Title 12 ATV laws to ATV programs.	Additional revenue, but amount is not known.	2004 session
Legislation	Gov. Baldacci	Authorize a mud season closure for ATV trails similar to the road posting process, so it can be done at the local level. Insure a substantial fine applies to violations.	0	2004 session
Legislation	Gov. Baldacci	To Title 12, Subsection 7854, 4B "The ATV Recreational Management Fund is established and administered by the Department of Conservation ... to assist in the design and development of ATV trails" add, <u>"for ATV trail or sport riding facility acquisition, including, but not limited to, the purchase or lease of real estate and the acquisition of easements."</u>	0	2004 session
Legislation	Gov. Baldacci	To Title 12, section 7857, paragraph 22-A, "Operating an ATV in a prohibited area," add <u>"rivers, brooks, streams, Great Ponds, non-forested wetlands, vernal pools, and source water protection areas of public drinking water supplies, except for needed maintenance and management authorized by the landowner."</u>	0	2004 session
Legislation	Gov. Baldacci	Prohibit snorkel kits and similar kits designed to allow ATV use in deep water, except at sanctioned events and with the landowner's permission.	0	2004 session
Legislation	Gov. Baldacci	Change the sound decibel level to the 20-inch test at 96 DBA, to reflect national standards.	0	2004 session

Governor's ATV Task Force Action Plan, January through December 2004

Category	Leader	Legislation/ program/ publication	Cost/ revenue	Target Date
Legislation	Gov. Baldacci	Create a legislative study group to review and, if necessary, modify statutes so that allowing public recreational access doesn't compromise landowners' rights.	Legislative fiscal note	2004 session
Legislation	Gov. Baldacci	Increase the penalty for failure to stop for an officer would be increased to a Class D crime with a mandatory \$1,000 fine. Attempting to elude an officer (example passing a road or trail block) would escalate the penalty to a Class C crime.	0	2004 session
Legislation	Gov. Baldacci	Require brake lights on all ATVs.	0	2004 session
Legislation	Gov. Baldacci	Make ATV violations count as points against a driver's license.	May be costs to Secretary of State	2004 session
Legislation	Gov. Baldacci	Make an ATV OUI part of a driver's motor vehicle record.	May be costs to Secretary of State	2004 session
Legislation	Gov. Baldacci	Require visible identification on both the front and rear of all ATVs.	Cost to IFW depends on whether plates or stickers are used.	2004 session
Legislation	Gov. Baldacci	Make the minimum-age requirement consistent for all recreational vehicles.	0	2004 session
Legislation	Gov. Baldacci	Establish self-reporting accident forms for minor personal injury accidents.	0	2004 session
Legislation	Gov. Baldacci	Add destruction of signage and posting to Title 12, section 22-B, governing "Abuse of Another Person's Property."	0	2004 session

Governor's ATV Task Force

Action Plan, January through December 2004

Category	Leader	Legislation/ program/ publication	Cost/ revenue	Target Date
Legislation	Gov Baldacci	Prohibit children younger than 10 from operating an ATV, unless on land owned by parents, grandparents or guardian, or at an ATV training site.	0	2004 session
Legislation	Gov. Baldacci	Require a parent or guardian to attend ATV training with children ages 15 and younger.	0	2004 session
Legislation	Gov. Baldacci	Require mandatory safety and ethics training (or repeat training) for all ATV riders who are convicted of the most serious offenses, such as OUI, driving to endanger and criminal trespass, and ethics training for less serious ATV offenses. Authorize the IFW commissioner the authority to revoke any department license, registration or safety certificate for non-compliance.	Costs to be paid by the violator.	2004 session
State government	Gov. Baldacci	Authorize an extension of the ATV Task Force or create an ATV Advisory Committee, including representatives of state agencies, legislators and outdoor organizations, to continue efforts to resolve ATV problems.	Volunteer members.	January 2004
Law enforcement	IFW	Dedicate the Inland Fisheries and Wildlife Department's ATV gas tax revenues to the ATV law enforcement grant program.	Currently \$114,000 annually.	January 2004
Law enforcement	Law enforcement subcommittee	Work with the Chief Judge of the Maine District Court, the Legislature's Judiciary Committee and Maine prosecutors to establish a more effective system of penalties and fines for ATV offenses.	0	July 2004
Law enforcement	Maine Warden Service	Ensure all game wardens with field patrol responsibilities have access to four-wheel ATVs. The Warden Service currently has 42 4-wheelers. An additional 68 are needed at \$6,000 each.	Total cost: \$408,000	December 2004
Law enforcement	Law enforcement subcommittee	Ensure municipal and county law enforcement agencies have ATVs when needed for duty with Mobile Strike Forces by having two ATVs available at each regional office of the Maine Warden Service; 10 machines at \$6,000 each.	Total cost: \$60,000.	December 2004
Law enforcement	Law enforcement subcommittee	Offer law enforcement officers — municipal, county and state — training on (Title 12) ATV laws.	0	May 2004

Governor's ATV Task Force

Action Plan, January through December 2004

Category	Leader	Legislation/ program/ publication	Cost/ revenue	Target date
Law enforcement	Law enforcement subcommittee	Send officers from state, county and local police agencies to weeklong ATV enforcement course in New York, where they will learn to train other officers.	Cost \$45 per officer per day, plus travel.	June 2004
Law enforcement	Law enforcement subcommittee	Offer an in-state ATV operation training course for officers.	Cost \$250 per officer.	August 2004
Trails	DOC ATV Program	Research possible landowner incentives to open more land to ATV trails.	\$5,000 one-time cost.	December 2004
Trails	DOC ATV Program	Develop mud season closure sign to prevent damage.	\$1,000 annual cost.	March 2004
Trails	DOC	Commission an economic impact study by Margaret Chase Smith Center for Public Policy on current and potential impact of ATVs and the cost of ATV problems. (Seeking \$20,000 federal funding; \$8,000 in donations pledged from ATV Maine, ATV dealers, and The Nature Conservancy).	\$40,000 one-time cost.	December 2004
Trails	LURC, DOC, Warden Service	Coordinate Remote Pond signing, enforcement efforts in LURC jurisdiction.	\$1,000 one-time cost.	May 2004
Trails	DOC ATV Program	Develop loop and connecting trails and also sport-riding areas starting in high-need areas. (see Page 18 for details) to expand trails system to 7,000 miles.	Cost \$1.5 million Annually.	Begin 5-year program in 2004
Trails	DOC ATV Program	Develop additional ATV Clubs, concentrating on areas of greatest need.	Cost \$10,000 per year.	Ongoing program
Trails	DOC ATV Program, Agriculture	Coordinate communication between Soil & Water Conservation Districts, state agencies and ATV clubs. Develop condensed trail construction handbook.	\$10,000 one-time cost.	Start May 2004
Trails	DOC	Develop a program to encourage multiple use trails.	Cost \$2,500.	December 2004

Governor's ATV Task Force

Action Plan, January through December 2004

Category	Leader	Legislation/ program/ publication	Cost/ revenue	Target date
Trails	IFW, DOC	Ask Joint Standing Committees on Agriculture, Conservation and Forestry, and Inland Fisheries and Wildlife to write a letter requesting the Maine congressional delegation to change rules restricting use of federal funds to build multi-use trails. (Trails built with federal transportation funds cannot include ATV use.)	0	May 2004
Trails	DOC ATV Program	Pending state insurance review, provide at least \$2 million of insurance protection for landowners. (Current level is \$500,000).	Cost \$100,000 per year	December 2004
Trails	DOC ATV Program	Develop trail maps to be distributed to ATV users through clubs, dealers and at time of registration.	Cost \$25,000 per year	April 2004
Safety	IFW Recreation/ Safety	Offer adults (but not minors) the option of completing part of the six-hour safety course by studying at home and/or online and showing their proficiency by taking a test during the classroom component.	\$40,000 for online course; \$5,000 for CD course.	December 2004
Safety	IFW Recreation/ Safety	Develop a two- to three-hour annual safety refresher course, including making an ATV video, for adult riders and make it available to ATV clubs and other organizations, including adult education programs.	Cost \$25,000	December 2004
Safety	IFW Recreation/ Safety	Add hands-on training to ATV safety courses by providing ATVs (of various sizes) for participants to use, including 22 ATVs, 11 trailers.	Cost \$121,000	December 2004
Safety	ATV Safety Institute; Maine Warden Service, ATV Maine	Conduct ATV safety checkpoints.	Cost of one warden per checkpoint: \$200.	June 2004
Public Awareness	ATV Task Force	Seek public and private funding to conduct a state-wide, multi-media public awareness campaign to teach ATV riders about laws, safety and landowners' rights.	Cost \$5,000 (grant writing)	May 2004
Public Awareness	ATV Task Force	Create TV, radio and print advertisements. Seek sponsors. It's hoped that the costs of such a campaign could be reduced, as it was in a similar campaign in New Brunswick, by producing ads that could be sponsored to help expand campaign. ("This safety message is brought to you by ...")	Cost \$50,000.	June 2004

Governor's ATV Task Force

Action Plan January through December 2004

Category	Leader	Legislation/program/publication	Cost/ revenue	Target date
Public Awareness	ATV Task Force	Work with the Maine Attorney General's Office and others to produce a brochure (similar to "Landowner Liability Explained") to explain landowners' rights, protections and opportunities for tax relief under the state's Open Space law. Brochure must include information on prescriptive rights (adverse possession). Tell landowners what information is needed to enforce ATV laws and where to call.	Cost \$5,000.	October 2004
Public Awareness	ATV Task Force, Maine Injury Prevention Program	Develop a program to help reduce ATV injuries, including a brochure clearly stating the ATV accident statistics, strongly encouraging the use of helmets and educating riders about the most important laws regarding ATV use and safety.	Cost \$3,000	October 2004
Public Awareness	ATV Task Force, Recreational Motorsports Association	Work with the ATV industry to encourage responsible ATV behavior.	0	December 2004
Public Awareness	IFW, DOC	Make available informational brochures and maps when ATVs are registered and purchased.	Cost \$8,000.	December 2004
Public Awareness	ATV Task Force, Maine Office of Tourism	Make ATV brochures and maps available at all state visitor's centers and hand them out at the southern entrance of the Maine Turnpike to all vehicles bringing ATVs into Maine.	Cost \$5,000.	December 2004
Public Awareness	ATV Maine	Disperse information through ATV clubs.	0	December 2004
Public Awareness	IFW, ATV Safety Institute	Establish an effective educational program to reach youngsters in schools. Make young riders and parents aware that choosing the right size ATV is essential.	Cost \$10,000.	December 2004
Public Awareness	ATV Safety Institute, Recreational Motorsports Association	Tell ATV buyers about incentives (such as money from manufacturers) to take safety training.	0	December 2004
Public Awareness	IFW	Disseminate ATV information at sporting shows, fairs, festivals and other events, especially those likely to reach teenagers and young adults, by expanding IFW's Outdoor Partners Program with a second trailer.	Cost \$25,000.	December 2004

Appendix C

Draft ATV Enforcement Grant Program

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

§XXXX Definitions

1. **ATV Enforcement Grant Program.** “The grant” means the ATV Enforcement Grant Program established pursuant to Title 12, Section 7854, subsection 4, paragraph C.
2. **ATV Enforcement Grant Review Committee.** “Grant Committee” means the ATV Enforcement Grant Review Committee.
3. **ATV Grant Coordinator.** “ATV Grant Coordinator” means the person retained by the Commissioner to be responsible for providing administration and staff support for the ATV Enforcement Grant Program.
4. **General ATV Enforcement.** Includes both Level 1 and Level 2 ATV enforcement.
5. **Law enforcement agencies.** “Law enforcement agencies” means state, county, municipal agencies and bureaus, employing full-time and part-time enforcement officers certified by the Maine Criminal Justice Academy.
6. **Level 1 Enforcement.** Handling ATV complaints from public/landowners. Responding to accidents both on and off highway; ATV checks during normal course of patrol duties.
7. **Level 2 Enforcement.** ATV enforcement focused on recognized problems in localized area. Area may be of moderate use by ATVs but does not require the enforcement effort of a high-problem area.
8. **Matching funds.** “Matching funds” means any combination of public and private funds used in conjunction with the ATV Enforcement Grant. For the purpose of this chapter, including, but not limited to, private contributions of cash or securities, money from municipal or other public agencies, money from a federal matching program, in-kind contributions or any combination thereof.
9. **Multi-Jurisdiction, High-Problem Area.** Area of extensive use by ATVs, combined with documented complaints from the public/landowners. Examples being unauthorized trails, damaged agricultural lands, wetlands and other environmentally sensitive areas.

§XXXX. Grant established

This establishes the ATV Enforcement Grant Program. The grant consists of revenues received pursuant ----- and any funds received as contributions from private and public sources. The grant revenues, to be accounted within the Department of Inland Fisheries and Wildlife, must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the grant become part of the assets of the grant. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year.

§XXXX. Purpose of Grant

The grant is for the sole purpose of maintaining, improving and expanding ATV enforcement and training, for State, County and Municipal enforcement officers in accordance with the criteria provided for by section XXXX, subsection X, paragraph X.

§XXXX. Relation to other funding

The grant supplements sources and levels of funding appropriated and allocated by the Legislature. It is the intent of this legislation that a grant received from this ATV grant program is not considered a substitute for revenue previously appropriated or allocated.

§XXXX. Grant Availability

The grant must be available to law enforcement agencies in accordance with section XXXX. Law enforcement agencies may contract with nongovernmental organizations and individuals for the purpose of carrying out projects funded by the grant.

§XXXX. Grant Administration

The ATV Enforcement Grant Review Committee shall administer the fund.

§XXXX. Grant Expenditures; distribution

The Grant Committee shall make grants, applications for which must be reviewed in accordance with section XXXX, to law enforcement agencies for projects found consistent with the criteria pursuant to section XXXX. Except as provided in this chapter, the Grant Committee shall distribute annually available grant money as follows:

1. **General ATV, Enforcement.** XX percent of the money in the fund for Level 1 and Level 2 Enforcement activities.
2. **Multi-Jurisdiction High-Problem Areas.** XX percent of the money in the fund for Multi-Jurisdiction, High-Problem Area enforcement.

3. Enforcement Officer Training and Equipment. ?? percent of the money in the fund for law enforcement officer training and equipment.
4. Money to be carried forward. The Grant Committee is authorized to carry forward money in any of the percentage categories of this section into a successive year in the same category if this carry-over better serves the strategic plan or if no grant applications in a particular year adhere to the strategic plan for a particular percentage category.

§XXXX. ATV Enforcement Grant Review Committee

The Grant Committee must be organized within the Department of Inland Fisheries and Wildlife and shall carry out its duties in accordance with this section.

1. **Members.** The Grant Committee consists of nine members as follows:

- a. Three ex officio members or designee:

The Colonel of the Maine Warden Service

The Colonel of the Maine State Police

Director, Forest Protection Division, Maine Forest Service

- b. Six members appointed by the Commissioner representing the following:

One member of the Maine Sheriffs' Association

Four members of the Maine Chiefs of Police Association; representing Northern Maine, Southern Maine, Eastern Maine, and Central Maine

One member representing the Maine Criminal Justice Academy

2. **Terms.** The Commissioner shall appoint members to staggered 4-year terms. The initial appointments must be made by ----- 2004. The initial appointments are as follows: two 4-year terms; one 3-year term; and one 2-year term. Appointed members may not serve more than two consecutive 4-year terms.

3. **Chair;** election of board officers. The members of the Grant Committee shall annually elect one of its members as chair and one of its members as vice chair.

4. **Grant Committee meetings, rules and administration.** The Grant Committee shall conduct its meetings as follows:

- a. The Grant Committee shall meet at least two times a year at the call of the chair or when needed to address urgent ATV problems. The Grant Committee, acting in accordance with the Maine Administrative Procedure Act, may adopt any rules necessary for the conduct of its business. The board shall adopt by rule, no later than ---- 2004, a schedule for submission and action on grant proposals submitted pursuant to subsection 5, paragraph B.
- b. A quorum of the Grant Committee for the transaction of business is 5 members.
- c. Grant Committee members are governed by the conflict of interest provisions in Title 5, section 18.

5. **Grant Committee Duties.** The board has the following duties:

- a. No later than ----- 2004, the Grant Committee, in accordance with the rulemaking provisions of the Maine Administrative Procedure Act, shall adopt rules for distribution and reporting for each of the funding categories listed in section XXXX.
- b. The Grant Committee shall review and award annually funding requests for specific projects from law enforcement agencies. The Grant Committee may award grants only to proposals that conform to the rules adopted pursuant to paragraph A. Grant proposals must include a stated purpose, timeline, potential outcomes, a budget and an explanation of need.
- c. The Grant Committee shall submit an annual report to the Commissioner and the Joint Standing Committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. In the annual report, the Grant Committee shall detail expenditures made from grant revenues, and a detailed summary of ATV enforcement supported by the grant. The first report shall be submitted in January 2005.
- d. Responsibility for administration and staff support of the Grant Committee lies within the Department of Inland Fisheries and Wildlife. The services of an ATV Grant Coordinator shall be retained no later than -----2004. The ATV Grant Coordinator shall implement and account for the operations of the Grant Committee. This coordination position may be part-time. The Grant Committee may spend money to cover administrative costs. The board shall endeavor to keep the level of administrative expenses as low as practicable and include, in its annual report, discussion of efforts to minimize administrative expenses.

§XXXX. Distribution Criteria for Grants

When reviewing and awarding grant proposals submitted pursuant to section XXXX, subsection 5, paragraph B, the board shall consider:

1. General ATV Enforcement. For the category of General ATV Enforcement:

Historical documentation of ATV complaints from public/landowners.

Historical ATV accident data

Documented ATV enforcement problems

25% matching funds required.

2. Multi-Jurisdiction, High-Problem Area. For the category of Multi-Jurisdiction, High-Problem Area:

Documentation of extensive use of an area by ATVs; example, large number of ATVs in an area and/or a large number of transient ATV users.

Documentation of unauthorized trails, extensive damage to private and public property.

Documentation of ATV use in prohibited areas as defined in Maine law.

Documentation of multiple law enforcement agency involvement.

No matching money required.

3. Equipment and Training. For the category of equipment and training:

Documentation of ATV use on trails and private property.

Documentation of enforcement staff to support the use of ATV equipment and training.

Documentation of inability to obtain equipment from other sources.

Specific scheduled training events, training sponsorship.

50% matching money required.

The criteria in this section are not listed in order of priority. A grant applicant must indicate in the proposal the subsection under which the Grant Committee should evaluate the proposal.

<div>STATE OF MAINE</div> <div>SNOWMOBILE, ATV, WATERCRAFT ACCIDENT REPORT FORM</div> <div>The Department of Inland Fisheries and Wildlife is responsible for documenting all reportable Snowmobile, ATV, and Watercraft accidents which have at least one of the following:</div> <div>1. \$1,000.00 or more which includes all property damage. This report must be filed within 72 hours of a property damage only accident and can <u>only</u> be used to report a property damage accident. Property damage accidents resulting in less than \$1,000.00 which includes all property damage do not need to be reported.</div> <div>2. Personal injury or death. Any accident that causes a death or injuries that require the services of a physician have to be reported by the quickest means to a law enforcement officer and investigated by a law enforcement officer. This 72 hour form can <u>not</u> be used for reporting this type of accident</div> <div><div>MAIL TO: Department of Inland Fisheries and Wildlife Recreational Safety Division 284 State Street 41 State House Station Augusta, Maine 04333-0041</div><div>WITHIN 72 HOURS FOLLOWING ACCIDENT</div></div>	
TIME	Date of Accident: _____ Day of Week _____ Hour _____ AM <input type="checkbox"/> PM <input type="checkbox"/>
PLACE	Place Where Accident Occurred _____ County _____ City/Town _____
	Location Where Accident Occurred _____ Give name of road, body of water, trail name or ITS number
	At Trail Intersection With _____ Road, another trail
<div>Vehicle # 1</div> <div>Vehicle # 2</div>	
Driver's Name _____ Last, First, Middle	Driver's Name _____ Last, First, Middle
DOB MO. DAY YEAR <input type="checkbox"/> Male <input type="checkbox"/> Female Phone Number _____	D.O.B MO. DAY YEAR <input type="checkbox"/> Male <input type="checkbox"/> Female Phone Number _____
<input type="checkbox"/> Check if new address Current Address, Number and Street _____	<input type="checkbox"/> Check if new address Current Address, Number and Street _____
City/Town _____ State _____ Zip _____	City/Town _____ State _____ Zip _____
Year _____ Make _____	Year _____ Make _____
Serial Number _____	Serial Number _____
Describe Damage to Vehicle _____	Describe Damage to vehicle _____
Estimated Cost to Repair _____	Estimated Cost to Repair _____
Total Number of Vehicles Involved: _____ If more than two vehicles were involved, describe the additional vehicles on separate report forms and attach to this report.	
As a result of this accident, was anyone summonsed to court? <input type="checkbox"/> Yes <input type="checkbox"/> No Arrested? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Name of Court _____	
Charge(s) _____	
Did a Law Enforcement Officer investigate at the scene of the accident? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Name of Investigating Officer _____ Department: _____ (Please Print) (IFW, State Police, Sheriff, Local Police, etc)	
Was a policy of liability insurance covering the vehicle you were driving in effect at the time of the accident? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNSURE	
<div>FOR OFFICE USE ONLY</div> <div>Date Received: _____</div>	

Please check all boxes below that pertain to the property damage accident you were involved in.

1. Vehicle Type

☐ ATV

☐ Snowmobile

☐ Motor Vehicle

☐ Open Motorboat

☐ Cabin Motorboat

☐ Auxillary Sail

☐ Sail

☐ Rowboat

☐ Canoe

☐ Other (please list)

2. Type Location

☐ Marked and groomed trail

☐ Unmarked and ungroomed trail

☐ Bridge

☐ Open field

☐ Gravel pit

☐ Woods

☐ Lake/Pond

☐ River/Stream

☐ Ocean

☐ Road

☐ Other (please list)

3. Type Accident

☐ Collision with another vehicle

☐ Submersion

☐ Burns ÿ Fire or Explosion (fuel)

☐ Fire or explosion (non-fuel)

☐ Collision with vessel

☐ Collision with fixed object

☐ Collision with floating object

☐ Falls overboard

☐ Falls in boat

☐ Hit by propeller

☐ Grounding

☐ Capsizing

☐ Rear end sideswipe

☐ Head on sideswipe

☐ Ran off trail

☐ Rollover

☐ Train

☐ Animal

☐ Pedestrian

☐ Other (please list)

4. Object Struck

☐ Other vehicle (type)

☐ Gate or cable

☐ Waterway marker

☐ Bridge, pier, float or dock

☐ Floating object

☐ Pressure ridge

☐ R.R. Crossing device

☐ Utility pole

☐ Poles, posts or supports

☐ Fire hydrant/parking meter

☐ Tree

☐ Guard rails

☐ Fencing

☐ Culvert headwall

☐ Embankment

☐ Building, wall

☐ Rock outcrop, ledge

☐ Other (please list)

5. Other Property Damage

☐ State property

☐ Utilities property

☐ Other (please list)

☐ Unknown

6. Light

☐ Dawn

☐ Daylight

☐ Dusk

☐ Dark (street lights on)

☐ Dark (no street lights)

☐ Other (please list)

7. Weather-Atmosphere

☐ Clear

☐ Rain

☐ Snow

☐ Sleet, hail, freezing rain

☐ Fog, smog, smoke

☐ Blowing sand or dust

☐ Cloudy

☐ Other (please list)

8. Winds

☐ None

☐ Light (0 – 6 mph)

☐ Moderate (7 – 14 mph)

☐ Strong (15 – 20 mph)

☐ Storm (25+ mph)

9. Surface Conditions

☐ Calm

☐ Choppy

☐ Rough

☐ Very rough

☐ Strong current

☐ Debris

☐ Dry

☐ Muddy

☐ Packed snow

☐ Powder snow

☐ Slush

☐ Ice covered

10. Personal Safety Equipment Used

☐ Approved lifejacket

☐ Lifejacket not approved

☐ Helmet used

☐ Helmet not used

☐ None

11. Vehicle Safety Equipment

☐ Fire extinguisher

☐ Throw bags

☐ Outside lines

☐ Inside lines

☐ Wet suit

☐ N/A

12. RV Safety Training completed?

☐ No

☐ Yes

13. Member of a Club

☐ No

☐ Yes

14. Pre-Accident Actions-Maneuvers By Vehicle

☐ Cruising

☐ Approaching dock

☐ Tied to dock

☐ At anchor

☐ Parked

☐ Fueling

☐ Skidding

☐ Overtaking/passing

☐ Backing

☐ Operating on a public way

☐ Operating on a private way

☐ Other vehicular action

☐ Avoiding vehicle, object, pedestrian, animal

☐ Water skiing

☐ Rafting

☐ Racing

☐ Towing

☐ Being towed

☐ Drifting

☐ Canoeing/Kayaking

☐ Fishing

☐ Hunting

☐ Making right turn

☐ Making left turn

☐ Making U turn

☐ Starting from park

☐ Slowing in traffic

☐ Stopped in traffic

☐ Following trail

☐ Unknown

15. Pre-Accident Actions-Maneuvers By Pedestrian

☐ Standing

☐ Skiing

☐ Skin diving/swimming

☐ Does not apply

☐ Pushing or working on vehicle

☐ Other pedestrian action

☐ Getting on/off vehicle

☐ Unknown

16. Apparent Contributing Factors

Human

☐ No improper action

☐ Fail to yield right of way

☐ Unsafe speed

☐ Following to close

☐ Disregard trail or waterway markers

☐ Improper pass/overtaking

☐ Improper turn

☐ Unsafe backing

☐ Impeding traffic

☐ Operating inattention

☐ Operating in unfamiliar area

☐ Fell or thrown off

☐ Failure to use lights

☐ Operator inexperience

☐ Physical impairment

☐ Vision obscured

☐ Hit and run

☐ Unknown

Vehicular

☐ Clothing tangled

☐ Stuck throttle

☐ Defective brakes

☐ Other vehicle defect or failure

☐ Unknown

☐ Defective suspension

☐ Defective steering

☐ Defective lights

☐ Defective tires

DESCRIBE WHAT HAPPENED (Refer to vehicles by number)

SIGN

HERE

Signature of DRIVER/your vehicle No.1

Current mailing Address

Date

Appendix E: Multiple Use Statute

RCW 79.10.100

Concept to be utilized, when.

The legislature hereby directs that a multiple use concept be utilized by the department in the administration of public lands where such a concept is in the best interests of the state and the general welfare of the citizens thereof, and is consistent with the applicable provisions of the various lands involved.

[2003 c 334 § 534; 1971 ex.s. c 234 § 1. Formerly RCW 79.68.010.]

NOTES:

Intent -- 2003 c 334: See note following RCW 79.02.010.

RCW 79.10.110

"Multiple use" defined.

"Multiple use" as used in RCW 79.10.070, 79.44.003, and this chapter shall mean the management and administration of state-owned lands under the jurisdiction of the department to provide for several uses simultaneously on a single tract and/or planned rotation of one or more uses on and between specific portions of the total ownership consistent with the provisions of RCW 79.10.100.

[2003 c 334 § 535; 1971 ex.s. c 234 § 2. Formerly RCW 79.68.020.]

NOTES:

Intent -- 2003 c 334: See note following RCW 79.02.010.

RCW 79.10.120

Multiple uses compatible with financial obligations of trust management -- Other uses permitted, when.

Multiple uses additional to and compatible with those basic activities necessary to fulfill the financial obligations of trust management may include but are not limited to:

- (1) Recreational areas;
- (2) Recreational trails for both vehicular and nonvehicular uses;
- (3) Special educational or scientific studies;
- (4) Experimental programs by the various public agencies;
- (5) Special events;
- (6) Hunting and fishing and other sports activities;
- (7) Nonconsumptive wildlife activities as defined by the board of natural resources;
- (8) Maintenance of scenic areas;
- (9) Maintenance of historical sites;
- (10) Municipal or other public watershed protection;
- (11) Greenbelt areas;
- (12) Public rights of way;
- (13) Other uses or activities by public agencies;

If such additional uses are not compatible with the financial obligations in the management of trust land they may be permitted only if there is compensation from such uses satisfying the financial obligations.

[2003 c 182 § 2; 1971 ex.s. c 234 § 5. Formerly RCW 79.68.050.]

Appendix F: Washington “Recreational Immunity” Statute



RCW 4.24.200

Liability of owners or others in possession of land and water areas for injuries to recreation users -- Purpose.

The purpose of RCW 4.24.200 and 4.24.210 is to encourage owners or others in lawful possession and control of land and water areas or channels to make them available to the public for recreational purposes by limiting their liability toward persons entering thereon and toward persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

[1969 ex.s. c 24 § 1; 1967 c 216 § 1.]

RCW 4.24.210

Liability of owners or others in possession of land and water areas for injuries to recreation users -- Limitation.

(1) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowners or others in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting, fishing, camping, picnicking, swimming, hiking, bicycling, skateboarding or other nonmotorized wheel-based activities, hanggliding, paragliding, rock climbing, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefor, shall not be liable for unintentional injuries to such users.

(2) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowner or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels, who offer or allow such land to be used for purposes of a fish or wildlife cooperative project, or allow access to such land for cleanup of litter or other solid waste, shall not be liable for unintentional injuries to any volunteer group or to any other users.

(3) Any public or private landowner, or others in lawful possession and control of the land, may charge an administrative fee of up to twenty-five dollars for the cutting, gathering, and removing of firewood from the land.

(4) Nothing in this section shall prevent the liability of a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. A fixed anchor used in rock climbing and put in place by someone other than a landowner is not a known dangerous artificial latent condition and a landowner under subsection (1) of this section shall not be liable for unintentional injuries resulting from the condition or use of such an anchor. Nothing in RCW 4.24.200 and 4.24.210 limits or expands in any way the doctrine of attractive nuisance. Usage by members of the public, volunteer groups, or other users is permissive and does not support any claim of adverse possession.

(5) For purposes of this section, a license or permit issued for statewide use under authority of chapter 79A.05 RCW or Title 77 RCW is not a fee.

[2003 c 39 § 2; 2003 c 16 § 2; 1997 c 26 § 1; 1992 c 52 § 1. Prior: 1991 c 69 § 1; 1991 c 50 § 1; 1980 c 111 § 1; 1979 c 53 § 1; 1972 ex.s. c 153 § 17; 1969 ex.s. c 24 § 2; 1967 c 216 § 2.]

NOTES:

Reviser's note: This section was amended by 2003 c 16 § 2 and by 2003 c 39 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding -- 2003 c 16: "The legislature finds that some property owners in Washington are concerned about the possibility of liability arising when individuals are permitted to engage in potentially dangerous outdoor recreational activities, such as rock climbing. Although RCW 4.24.210 provides property owners with immunity from legal claims for any unintentional injuries suffered by certain individuals recreating on their land, the legislature finds that it is important to the promotion of rock climbing opportunities to specifically include rock climbing as one of the recreational activities that are included in

RCW 4.24.210. By including rock climbing in RCW 4.24.210, the legislature intends merely to provide assurance to the owners of property suitable for this type of recreation, and does not intend to limit the application of RCW 4.24.210 to other types of recreation. By providing that a landowner shall not be liable for any unintentional injuries resulting from the condition or use of a fixed anchor used in rock climbing, the legislature recognizes that such fixed anchors are recreational equipment used by climbers for which a landowner has no duty of care." [2003 c 16 § 1.].

Purpose -- 1972 ex.s. c 153: See RCW 79A.35.070.

Appendix G: Davis v. State of Washington and Grant County
(2001)

144 Wn.2d 612, DAVIS v. STATE

[No. 70212-8. En Banc.]

Argued May 8, 2001. Decided September 6, 2001.

Joseph P. Davis, Petitioner, v. The State of Washington, Respondent.

Sept. 2001 DAVIS v. STATE 613
144 Wn.2d 612

Madsen, J., concurs by separate opinion.

614 DAVIS v. STATE Sept. 2001
144 Wn.2d 612

Stephen L. Bulzomi (of Messina Law Firm), for petitioner.

Christine O. Gregoire, Attorney General, and Glen A. Anderson, Assistant, for respondent.

Johnson, J. - The issue in this case is whether tire tracks made in sandy terrain by recreational riders leading to a naturally created drop-off constitute an artificial condition for purposes of qualifying as an exception to Washington's recreational use immunity statutes. See RCW [4.24.200](#), .210. We hold the injury-causing condition in this case is not artificial and the State is not liable for the petitioner's injuries.

FACTS

Joseph Davis (Davis) was injured after launching off a 20- to 30-foot drop-off while riding his motorcycle at the Beverly Dunes Recreation Area (Beverly Dunes). Beverly Dunes is located in central Washington and is owned and operated by the Washington State Department of Natural Resources (State). The sand dunes are left in their natural state and the public is permitted to ride recreational vehicles in the area free of charge.

On May 21, 1995, Davis and two friends were riding motorcycles along the sand dunes at Beverly Dunes when they encountered a relatively flat, wide open area with a slight incline. Both Davis and Matthew Atterson stated they were following a trail of tire tracks leading across the area. Looking straight ahead, it appeared to them the terrain continued as a straightaway for some distance. After a short distance, however, the tracks suddenly fell away and Davis' motorcycle launched over a steep drop-off. After falling 20 to 30 feet, Davis landed on hard, compacted sand below. As a result, Davis suffered a broken spine, resulting in paraplegia and blindness.

A sudden drop-off of 20 to 30 feet is uncharacteristic for Beverly Dunes. Typically, the terrain is relatively flat and sandy, consisting of rolling dunes with gradual elevation changes. There were no warning signs posted before the drop-off. Davis' human factors expert stated that in his expert opinion the area where the incident occurred had been changed from its natural condition by the use of recreational vehicles creating tracks leading to the drop-off. Photographs included in the record show a flat area of land with

numerous tire tracks traveling in various directions, including some heading toward the drop-off.

Davis filed this suit against the State. The State moved for summary judgment, asserting it was immune from liability under Washington's recreational use immunity statutes, RCW [4.24.200](#) and RCW [4.24.210](#). The trial court granted summary judgment, concluding the injury-causing condition was not artificial and, therefore, did not qualify as an exception to the statutes. The Court of Appeals affirmed, finding Davis failed to show artificiality and failed to show the State knew about the condition. *Davis v. State*, [102 Wn. App. 177](#), 6 P.3d 1191 (2000). Davis petitioned this court for review, which we granted.¹

ANALYSIS

Generally, the duty of care a landowner owes to a person depends upon whether the person is an invitee, a licensee, or a trespasser. *Van Dinter v. City of Kennewick*, [121 Wn.2d 38](#), 41, 846 P.2d 522 (1993). At common law, the recreational

entrant was characterized as a "public" invitee to which landowners owed a duty of ordinary care to keep premises in a reasonably safe condition. *Egede-Nissen v. Crystal Mountain, Inc.*, [93 Wn.2d 127](#), 131-33, 606 P.2d 1214 (1980). This included an affirmative duty to inspect the premises and discover dangerous conditions. *Van Dinter*, [121 Wn.2d at 42](#).

Washington's recreational use statutes were intended to modify the common law duty owed to public invitees so as to encourage landowners to open their lands to the public for recreational purposes. See RCW [4.24.200](#). To that end, RCW [4.24.210](#)(1) provides:

[A]ny public or private landowners or others in lawful possession and control of any lands . . . who allow members of the public to use them for the purposes of outdoor recreation, which term includes . . . pleasure driving of off-road vehicles . . . shall not be liable for unintentional injuries to such users.

Although landowners generally are not liable for the injuries incurred by recreational users of their land, there are three limited circumstances under which liability will attach. Landowners may not escape liability if: (1) a fee for the use of the land is charged; (2) the injuries were intentionally inflicted; or (3) the injuries were sustained by reason of a known dangerous artificial latent condition for which no warning signs were posted. RCW [4.24.210](#)(1), (3). Here, the State did not charge a fee for the use of Beverly Dunes. Davis' injuries were not intentionally inflicted. There were no warning signs posted. Thus, the only issue is whether Davis' injuries were sustained by reason of a known dangerous artificial latent condition.

In order to establish a recreational use landowner's liability, each of the four elements (known, dangerous, artificial, latent) must be present in the injury-causing condition.

¹ Because this is a review of a summary judgment, we engage in the same inquiry as the trial court. We consider all the evidence and all reasonable inferences therefrom in the light most favorable to the nonmoving party, in this case Davis. *Wilson v. Steinbach*, [98 Wn.2d 434](#), 437, 656 P.2d 1030 (1982).

Ravenscroft v. Wash. Water Power Co., [136 Wn.2d 911](#), 920, 969 P.2d 75 (1998). The elements modify the term "condition," rather than modifying one another. Ravenscroft, [136 Wn.2d at 920](#). If one of the four elements is not present, a claim cannot survive summary judgment.

For purposes of RCW [4.24.210](#), the meaning of "artificial" is the ordinary meaning. Ravenscroft, [136 Wn.2d at 922](#). As defined in Webster's, "artificial" means "contrived through human art or effort and not by natural causes detached from human agency: relating to human direction or effect in contrast to nature: a: formed or established by man's efforts, not by nature." Webster's Third New International Dictionary 124 (1986). Under the facts of this case, there is no question the drop-off is a naturally occurring condition. However, Davis argues the tracks leading to the drop-off were a human made alteration to the natural contours of the sand dunes that became part of the injury-causing condition, transforming it into an artificial condition. Although we agree the tire tracks are artificial,² we do not find the tracks and the drop-off so closely related as to create a single artificial condition for purposes of qualifying as an exception to the recreational use immunity statutes.

Davis argues our recent decision in Ravenscroft supports his argument that the injury-causing condition is artificial. We do not agree. In Ravenscroft, the plaintiff was injured while boating on the Long Lake reservoir when the boat hit a submerged tree stump. The impact caused the outboard motor to flip onto the boat, hitting the plaintiff in the shoulder. Ravenscroft, [136 Wn.2d at 915](#). In determining whether the injury-causing condition was artificial, we defined an injury-causing condition as "the specific object or instrumentality that caused the injury, viewed in relation to other external circumstances in which the instrumentality is situated or operates." Ravenscroft, [136 Wn.2d at 921](#). We explained that in Ravenscroft's case the tree stump was the specific object causing the injury and the external circumstance was the landowner's artificial alteration of that stump by manipulation of the watercourse and water level. Ravenscroft, [136 Wn.2d at 921](#). Thus, the injury-causing condition included both the stump and the artificial control of the water flow and water level.

Davis argues the injury-causing condition in his case is similar to that in Ravenscroft. He argues the specific object that caused his injuries was the 20- to 30-foot drop-off, and the tracks left by recreational users leading to the drop-off were the "external circumstances." He asserts that taken together they amount to an artificial condition. We disagree.

The facts in this case are distinguishable from Ravenscroft. The artificial condition in Ravenscroft was unique. There, the defendant's artificial control of the watercourse was an external circumstance that physically altered the condition of the tree stump so as to transform the condition into a hidden and dangerous one. The artificial external circumstance was so closely related to the natural object that it completely altered the natural condition of that object. The two conditions could not reasonably be analyzed as

² The Court of Appeals concluded the injury-causing condition was not artificial because the tire tracks were not a "purposeful creation." Davis, [102 Wn. App. at 188](#). The correct inquiry is not whether a condition was intentionally created; rather, the proper inquiry is whether the injury-causing condition was the product of human efforts in contrast to a naturally occurring condition. Even unintended human changes to the land that alter something from its natural state can be artificial.

independent circumstances. A person walking up to the stump could not have viewed it in its natural condition. This close relationship between a specific injury-causing condition (the tree stump) and an artificial external circumstance (the shifting of the water level and watercourse so as to submerge the stump) is rare. Consequently, the analysis in Ravenscroft will rarely apply to other situations.

We are not presented with one of those rare cases here. Unlike the condition in Ravenscroft, the external circumstance (the tire tracks) did not transform the natural state of the specific object causing Davis' injuries (the drop-off). The tracks and the drop-off are not so closely related that they cannot be encountered independently. The record shows the flat open space had a variety of tire tracks leading in all different directions. Some of these tracks led to the drop-off. While these tracks may have altered the natural condition of the flat open space, they did not physically alter the natural condition of the drop-off to such an extent as to transform it from a natural state to an artificial one. If Davis had walked up to the drop-off following a set of artificial tire tracks, he still would have encountered the drop-off in its natural condition.

Unlike the stump in Ravenscroft, nothing about the artificial tire tracks transformed the drop-off into an unnatural condition. The fact that Davis and his friends were following a set of artificial tracks across the flat open space to the edge of the drop-off does not alter the fact the drop-off itself remained in its natural state. The relationship between the tracks and the drop-off is more attenuated than the relationship between the stump and the artificial control of the watercourse and water level in Ravenscroft.

CONCLUSION

In order to assert a valid recreational use landowner's liability claim, as existed in Ravenscroft, a plaintiff must establish that the artificial external circumstance so changed a natural condition it is unreasonable to distinguish the two when analyzing whether the condition was artificial. Here, Davis fails to establish that the tire tracks altered the drop-off so as to transform it from its natural condition into an artificial one. Consequently, we find Davis has not proved the injury-causing condition in his case was artificial; therefore, the State is immune from liability.

The Court of Appeals is affirmed.

Alexander, C.J., and Smith, Sanders, Ireland, Bridge, Chambers, and Owens, JJ., concur.

Madsen, J. (concurring) - The majority uses the definition of "artificial" adopted in Ravenscroft v. Washington Water Power Co., [136 Wn.2d 911](#), 969 P.2d 75 (1998) for determining whether a condition is "artificial" for purposes of the recreational use statute, RCW [4.24.210](#). The majority then distinguishes Ravenscroft, adding a gloss that does not appear in that case, i.e., the inquiry of how close the relationship is between an "artificial external circumstance" and the immediate condition causing the injury. Majority at 618. Of course, this qualification is needed to avoid the unreasonable result that would otherwise follow in this case. The majority's struggle with Ravenscroft bears out the prediction in my dissent in Ravenscroft that the decision would provide no clear guidance for determining whether a condition is "artificial." Ravenscroft, [136 Wn.2d at 932](#), 936

(Madsen, J., dissenting).

I recognize that given the flawed analysis in Ravenscroft, the majority has arrived at the best solution it can short of overruling the case. I believe the better course is to accept that Ravenscroft contains a flawed analysis, and that it will be necessary to distinguish it far more often than apply it in order to carry out the purpose of the recreational use statute. The court should abandon Ravenscroft altogether and apply a clear, narrower definition of "artificial condition." As I proposed in my dissent in Ravenscroft, this court should confine the definition of "artificial" for purposes of the statute to conditions which are actually man-made and not occurring in nature. The inquiry should also focus first on what actually constitutes the injury causing condition, rather than on all surrounding conditions.

This approach better serves the purpose of the recreational use statute. The aim of the recreational use statute is to encourage those in possession or control of land and water areas to make them available for recreational use by the public, and to protect the owners of recreational use property from liability. RCW [4.24.200](#). That purpose is thwarted when the meaning of "artificial condition" includes any man-made change in a recreational use area, or any "condition contrived through human effort." Ravenscroft, [136 Wn.2d at 933](#) (Madsen, J., dissenting).

Here, the sand dune drop-off was the injury causing condition. The clear answer to the question of "artificiality" in this case is that the sand dune drop-off was in its naturally occurring state. Sand dunes naturally shift, and those along the Columbia River are subject to considerable wind that causes shifting. As a matter of law, the injury causing condition was not artificial, as the majority concludes.

The fact that tracks were left by other users does not alter that conclusion. First, the mere use of the property as recreational property should not create the "artificiality" giving rise to liability. Otherwise, any alteration in the natural state brought about by recreational use could lead to liability despite the purpose of the statute to encourage opening up lands and waters for recreational use. If the use itself can create the artificial condition, and thus expose the owner to liability, a disincentive, rather than an incentive, to open up lands and waters results. Second, the tracks of other users were not, as the Court of Appeals observed, a purposeful effort to alter the nature of the sand dunes, and indeed, they did not create or alter the drop-off at all. Finally, the tracks were not the injury causing condition, nor should they be viewed as a component of it. The drop-off was the injury causing condition.

This court should acknowledge that the approach followed in Ravenscroft is unworkable and inconsistent with the purpose of the recreational use statute. Rather than try to work within its flawed framework, adding additional analytical specifications where needed in order to distinguish it, the court should expressly disapprove its analysis.

I concur in the result reached by the majority.

Appendix H: Incident Reports



Office of Financial Management
State of Washington

Form for Reporting Incidents to OFM

This report is submitted to OFM for the sole purpose of fulfilling the notification requirement in RCW 43.41.370(4) as further described in the Guidelines for Reporting Incidents to OFM. This report is not an admission of fault nor has any determination of fault been made. The information reported is a brief summary of known facts at this time and is subject to change.

AGENCY NAME:

Department of Natural Resources

NAME OF PERSON MAKING REPORT: (include telephone number and email address)

Jim Smego – Risk Manager; phone 902-1264; E-mail: Jim.Smego@WADNR.Gov

DATE OF INCIDENT OR LOSS:

May 2, 2003 @ approximately 2:50 pm (Friday)

NAME OF PERSON, DESCRIPTION OF INCIDENT OR LOSS:

An ORV accident, involving a single male rider using a quad 4 wheeler, struck a tree just off the A-2000 Middle Fork Ahtanum Road in Yakima County. Operator lost control or failed to maintain control of the quad ATV when approaching a curve in the road. The vehicle then left the road and crashed into a tree. The West Valley Fire Department medivac unit responded and took over from bystanders at the scene who discovered the accident. Efforts to resuscitate the ORV operator were unsuccessful and he was pronounced dead. The accident victim was airlifted to Yakima. The Yakima County Sheriff's Office and WSP are conducting the investigation.

AGENCY CONTACT PERSON (Name, title, telephone number and email address):

Jim Smego – Risk Manager; phone 902-1264; E-mail: Jim.Smego@WADNR.Gov
Additional information is available from Gary Margheim – Investigator in DNR's Southeast Region, based in Ellensburg.

HAS THE AGENCY CONVENED AN INTERNAL REVIEW PROCESS? IF YES, PROVIDE INFORMATION ON THE STATUS OF THE REVIEW:

The Yakima County Sheriff's Office and WSP are conducting the investigation, which is on going at this time. DNR will convene an internal review of the incident in the near future.



Office of Financial Management
State of Washington

Form for Reporting Incidents to OFM

This report is submitted to OFM for the sole purpose of fulfilling the notification requirement in RCW 43.41.370(4) as further described in the Guidelines for Reporting Incidents to OFM. This report is not an admission of fault nor has any determination of fault been made. The information reported is a brief summary of known facts at this time and is subject to change.

AGENCY NAME:

Department of Natural Resources

NAME OF PERSON MAKING REPORT: (include telephone number and email address)

Jim Smego – Risk Manager; phone 902-1264; E-mail: Jim.Smego@WADNR.Gov

DATE OF INCIDENT OR LOSS:

March 15, 2003 (Saturday)

NAME OF PERSON, DESCRIPTION OF INCIDENT OR LOSS:

A quad ATV rider lost control of his vehicle near mile marker 3 on the Howell Lake trail in the Tahuya State Forest. The vehicle and driver hit a tree and the driver suffered serious heart damage (severed aorta requiring partial replacement with a plastic tube) and punctured lung. The ATV operator was airlifted to Harborview Hospital in Seattle in critical condition (he was without blood pressure for an extended length of time), and passed away after a week or so of care. The driver had purchased the vehicle on Friday March 14, 2003 and this was the first time using it. It appears the quad ATV hit a root in the trail (very common) and the driver was ejected from the ATV and impacted a tree.

AGENCY CONTACT PERSON (Name, title, telephone number and email address):

Jim Smego – Risk Manager; phone 902-1264; E-mail: Jim.Smego@WADNR.Gov
Additional information available from: Dennis Heryford – Chief Investigator for DNR, or Jim Russell – Investigator in DNR's South Puget Sound Region.

HAS THE AGENCY CONVENED AN INTERNAL REVIEW PROCESS? IF YES, PROVIDE INFORMATION ON THE STATUS OF THE REVIEW:

DNR law enforcement is leading the investigation, in cooperation with the Mason County Sheriff's Office, and it is on going at this time.



Office of Financial Management
State of Washington

Form for Reporting Incidents to OFM

This report is submitted to OFM for the sole purpose of fulfilling the notification requirement in RCW 43.41.370(4) as further described in the Guidelines for Reporting Incidents to OFM. This report is not an admission of fault nor has any determination of fault been made. The information reported is a brief summary of known facts at this time and is subject to change.

AGENCY NAME:

Department of Natural Resources

NAME OF PERSON MAKING REPORT: (include telephone number and email address)

Jim Smego – Risk Manager; phone 902-1264; E-mail: Jim.Smego@WADNR.Gov

DATE OF INCIDENT OR LOSS:

March 1, 2003

NAME OF PERSON, DESCRIPTION OF INCIDENT OR LOSS:

A two vehicle accident on the Walker Valley trail system in Skagit County. A quad-ATV and pickup truck collided on the B-1000 mainline road. The gate restricting access to this road had been vandalized (broken cross-arm making it un-securable). The quad rider was airlifted to Harborview Hospital in Seattle and was listed in critical condition with severe tibia/fibula fractures (two broken hips), collarbone fracture and possible double skull fracture. These injuries are not considered life threatening. The quad rider was wearing a helmet at the time of the collision. DNR law enforcement was unsuccessful in contacting, prior to the accident, the quad rider and the group of riders he was with, to warn them about excessive speed and unsafe riding practices. Citations will be issued through the mail and group members were notified of this at the accident scene.

AGENCY CONTACT PERSON (Name, title, telephone number and email address):

Jim Smego – Risk Manager; phone 902-1264; E-mail: Jim.Smego@WADNR.Gov
Additional information available from: Dennis Heryford – Chief Investigator for DNR, or Kevin Alberg – Investigator in DNR's Northwest Region.

HAS THE AGENCY CONVENED AN INTERNAL REVIEW PROCESS? IF YES, PROVIDE INFORMATION ON THE STATUS OF THE REVIEW:

The Washington State Patrol is leading the investigation and it is on going at this time. DNR is evaluating engineering repairs to the gate to restrict access of the B-1000 road.

Appendix I: Document Log

DOCUMENT LOG

LOSS PREVENTION REVIEW TEAM

Matter No.: **03-35, 03-41, 03-64**

Agency: **Department of Natural Resources**

Other identifier: **2004 Review of ORV Incidents**

DOCUMENT	SOURCE	DATE IN	CONFIDENTIAL	BATE NO.
Background and information	DNR	12/19/03	NO	000001
Chapter 79.10 RCW	DNR	12/19/04	NO	000003
Chapter 332-52 WAC	DNR	12/19/03	NO	000011
DNR Policy PO10-002 Public Use on DNR Managed Trust Lands	DNR	12/19/03	NO	000027
DNR Review Draft, Recreation and Access Policy for DNR-Managed State Trust Lands	DNR	12/19/03	YES	000035
RCW 4.24.200 and 210 (Recreation and Liability)	DNR	12/19/03	NO	000039
Opinion Information Sheet, Joseph Patrick Davis v. State of Washington and Grant County, Washington	DNR	12/19/03	NO	000043
Tacoma News Tribune Article on Joseph P Davis Case	DNR	12/19/03	NO	000049
Tacoma State Forest Map	DNR	12/19/03	NO	000051
Ahtanum Multiple Use Area Map	DNR	12/19/03	NO	000052
O.S. Forest Service Trail Construction and Maintenance Notebook, 2000 Edition	DNR	01/16/04	NO	000053

DOCUMENT	SOURCE	DATE IN	CONFIDENTIAL	BATE NO.
Tahuya State Forest Trail Map, 1996	DNR	01/16/04	NO	000054
DNR Public Use Study	DNR	01/22/04	NO	000055
DNR Policy PO04-002, Risk Management	DNR	01/22/04	NO	000320
News Article, "ATV riders must take responsibility for safety"	Scripps Howard News Service	01/22/04	NO	000322
DNR Standard Practice Memorandum SPM 03-05, Critical Incident Review Teams	DNR	01/22/04	NO	000325
Washington State Recreation Trends	Office of Interagency Committee	01/22/04	NO	000328
U.S. Consumer Product Safety Commission Memorandum, Annual Report for All-Terrain Vehicle (ATV)- Related Deaths and Injuries	U.S. Consumer Product Safety Commission	01/22/04	NO	000330
Miscellaneous Off Road Vehicle Policies, Other States and Agencies	OFM compilation from various websites	01/22/04	NO	000349
State All-Terrain Vehicle Requirements	Specialty Vehicle Institute of America (website)	01/22/04	NO	000384
Specialty Vehicle Institute of America (SVIA) press release, "CPSC Report Shows Decline in Injury Rate"	SVIA (website)	01/22/04	NO	000385
SVIA press release, "All - Terrain Vehicle Sales and Training Continue to Gain Momentum"	SVIA (website)	01/22/04	NO	000388
Industry Background-ATV Safety Institute	SVIA	01/22/04	NO	000390
Proper Riding Gear-ATV Safety Institute	SVIA	01/22/04	NO	000391
ATV Rider Training-ATV Safety Institute	SVIA	01/22/04	NO	000392

DOCUMENT	SOURCE	DATE IN	CONFIDENTIAL	BATE NO.
SVIA to Address Safety Issues at CPSC Safety Hearing in Albuquerque, NM	SVIA	01/22/04	NO	000393
Model State ATV Legislation- Fact Sheet	SVIA	01/22/04	NO	000395
Mason County Fire District #2 Operating Guidelines Off Road Vehicle Accident Responses	Mason County Fire District #2	01/29/04	NO	000397
Washington State Off-Road Motorcycle Laws	American Motorcyclist Association (website)	01/29/04	NO	000399
ATV Training Description	Private Dealer	02/06/04	NO	000404
Walker Valley Trail System, Trail Map	DNR	02/06/04	NO	000405
Rainier ATV Adventure Tours Brochure	Private Dealer	02/06/04	NO	000406
Motorcycle Rider Course	Motorcycle Dealer	02/06/04	NO	000407
U.S. Forest Service Trail Construction and Maintenance Notebook, 1997	DNR	02/18/04	NO	000408
News Wire Story regarding ATV safety	DNR	01/16/04	NO	000409
Northwest Motorcycle Association information on ORV regulations	Northwest Motorcycle Association	01/27/04	NO	000412
DNR Recreation Program, Budget and Resource Information	DNR	02/03/04	NO	000415
Mason County Fire District #2 memo regarding purchase of equipment for ORV responses	Mason County Fire District #2	02/10/04	NO	000422
DNR Supervisor's Site Management Handbook	DNR	02/17/04	NO	000427
National motorcycle sales information	Motorcycle Industry Council	02/18/04	NO	000597

DOCUMENT	SOURCE	DATE IN	CONFIDENTIAL	BATE NO.
Mason County Fire District #2 Response Information to Tahuya State Forest	Mason County Fire District #2	02/19/04	NO	000599
Summary of DNR Interagency Agreements	DNR	02/19/04	NO	000600
DNR Mission Statement	DNR	02/24/04	NO	000610
Position Description of DNR Chief Investigator	DNR	02/25/04	NO	000611
Position Description of DNR Risk Manager	DNR	02/25/04	NO	000617
DNR Delegation Order	DNR	02/25/04	NO	000624
Position Description of DNR Safety Manager	DNR	02/25/04	NO	000631
DNR Draft Interim Strategy on Managing ORV Use	DNR	02/25/04	YES	000635
Classification Questionnaire for DNR Environmental Outreach and Training Specialist	DNR	02/25/04	NO	000640
Classification Questionnaire for DNR Natural Resource Investigator (Region)	DNR	02/25/04	NO	000643
Classification Questionnaire for DNR Natural Resource Investigator (Statewide)	DNR	02/25/04	NO	000646
Classification Questionnaire for DNR Natural Resource Investigator (Patrol)	DNR	02/25/04	NO	000649
Classification Questionnaire for DNR Secretary Administrative	DNR	02/25/04	NO	000652
Classification Questionnaire for DNR Environmental Svcs. Coord.	DNR	02/25/04	NO	000654
DNR Law Enforcement Policy Manual	DNR	02/25/04	NO	000657
ORV Registration in Washington, 1994-2003	Washington Department of Licensing	03/02/04	NO	000791

DOCUMENT	SOURCE	DATE IN	CONFIDENTIAL	BATE NO.
Various ORV registration and accident reporting forms from State of Maine	Maine Injury Prevention Program	03/02/04	NO	000801
Coroner's Report and Death Certificate relating to Ahtanum Incident	Yakima County Coroner	03/09/04	YES	000806
Washington Legislative Budget Committee reports on litigation and risk management, and related materials	Legislative Budget Committee and Department of General Administration	03/15/04	NO	000811
Sampling of DNR Lease/Easement Agreements	DNR	4/30/04	NO	000913
DNR – Recreation Program Funding History	DNR	4/20/04	NO	000907

Appendix J: Interviews Conducted

**INTERVIEWS CONDUCTED
LOSS PREVENTION REVIEW TEAM
DEPARTMENT OF NATURAL RESOURCES, OFF-ROAD VEHICLES**

Matter No.: **03-35, 03-41, 03-64**

Other identifier: **2004 Review of ORV Incidents**

INTERVIEW	ORGANIZATION	DATE
Doug McClelland	Department of Natural Resources, South Puget Sound Region	1/16/04
Mike Davies	Department of Natural Resources, South Puget Sound Region	1/16/04
Phil Wolff	Department of Natural Resources, South Puget Sound Region	1/16/04
Michael Green	Mason County Fire District #2, Fire Chief	1/16/04
Jim Smego	Department of Natural Resources, Risk Manager	1/22/04
Bonnie Bunning	Department of Natural Resources, Executive Director of Policy and Administration	1/29/04
Dennis Heryford	Department of Natural Resources, Chief of Enforcement	2/3/04
Kevin Alberg	Department of Natural Resources, Northwest Region	2/3/04

INTERVIEW	ORGANIZATION	DATE
Pene Speakes	Department of Natural Resources, Program Manager, Public Use	2/3/04
Bill Boyum	Department of Natural Resources, Region Manager, Southeast Region	2/3/04
Bill Wallace	Department of Natural Resources, Region Manager, Northwest Region	2/3/04
Carl Spurgeon	Department of Licensing, Washington Motorcycle Safety Program Coordinator	2/18/04
Scott Robinson	Department of Natural Resources	2/3/04
Vladimir Stablina	United States Forest Service	2/11/04
Tommy Thompson	Tahuya User Group	2/3/04